



**Shop
Steward**

**shop
Steward**

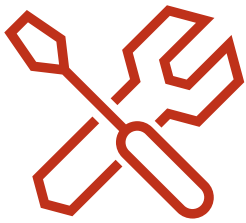
**shop
Steward**

**PSAC
SHOP
STEWARD
TOOL KIT**



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Contents

Introduction.....	4
Role of the shop steward.....	5
Getting established.....	6
Being an effective shop steward.....	12
Developing working relationships.....	18
What is a grievance?.....	22
Grievance procedure.....	26
How to investigate a grievance.....	30
Writing up the grievance.....	34
Presenting the grievance.....	38
Understanding adjudication/arbitration.....	42
Discipline and discharge.....	46
Refusing unsafe work.....	50
Q&A on grievances and adjudication/arbitration.....	52
Problem-solving: What to do when a matter is not grievable.....	56
Addressing member-to-member conflict.....	58
Harassment.....	62
Q&A on harassment.....	64

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Dealing with workplace violence.....	68
Disabilities in the workplace.....	72
Mental health issues.....	76
Duty to accommodate.....	80
Disability insurance claims.....	86
Canadian labour history 101.....	88
Shop steward's authority.....	92
Union rights by law.....	94
Common labour terms.....	100
Shop Steward Fact Sheet.....	113
Steward's Grievance Form.....	116
Grievance Transmittal Form.....	117
Your Contacts.....	118
Notes.....	120



Role of the shop steward

As a **shop steward**, you are the face of PSAC in the workplace. Whether you are elected or appointed, your role carries many responsibilities, including the following:

- interacting with members and being their ally;
- providing information and education to members;
- mobilizing members to support union bargaining and other initiatives;
- enforcing **collective agreements**;
- solving problems in the workplace;
- representing members during complaints and **grievances**;
- liaising with the chief shop steward, **local**/branch executive and shop stewards' network on workplace issues;
- participating on committees; and
- creating a union presence and promoting the union in the workplace.

Introduction

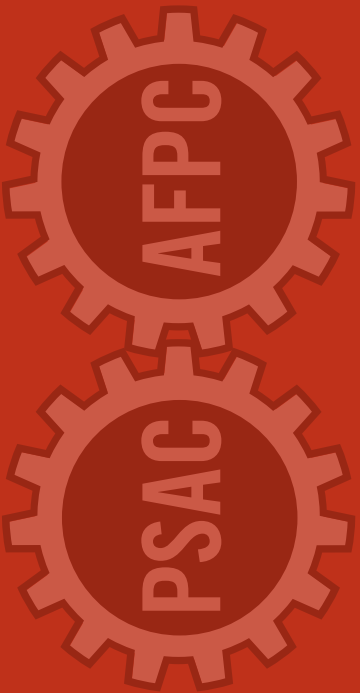
The Public Service Alliance of Canada Shop Steward Tool Kit is designed to assist you in your role as a shop steward for your local/branch.

The vast amount of information in this tool kit provides a solid foundation for your work. However, the tool kit does not replace the various types of shop steward training available through the PSAC education program (<http://psacunion.ca/education>) and delivered by some components. Check with the PSAC regional offices and on their webpages (<http://psacunion.ca/regional-office-contact-information>) for information about courses on grievance handling and about advanced training for shop stewards. Regional component officers (<http://psacunion.ca/component-contact-information>) can provide details on component shop steward training.

PSAC is committed to enhancing the shop steward program with online courses and tools (<http://psacunion.ca/shop-stewards>) to facilitate your efforts in your workplace and local/branch.

The PSAC Shop Steward Tool Kit is organized by theme and subject matter. **Bolded words in blue** are defined in the **dictionary of common labour terms** found at the end.

PSAC thanks the Canadian Labour Congress, CUPE and UNIFOR for their shop steward materials, which helped to shape the content of this tool kit.



Be prepared. Take initiative.

Be proactive. React when necessary.

Staying plugged in by attending union meetings, steward meetings, PSAC and Component initiatives will help you to be an informed and effective union steward. Remember to report back to the membership when you attend a union event.

By approaching your work as a compassionate professional you will build credibility with the membership and management.

Keep informed and be relevant.



Getting established

Members need to know who you are

As a **shop steward**, you must be visible in the workplace and known to the membership.

A member of the **local/branch** executive should introduce you to the membership. When this is not possible, take the initiative to introduce yourself to each and every member of the local/branch or workplace for which you are responsible.

Consider the following:

- Give members something to remember you by, such as a business card, leaflet or flyer – anything that has your name and contact information (phone, email and work location) on it.
- Introduce yourself to the supervisors and managers in the workplace for which you are responsible.
- Wear a PSAC shop steward pin in the workplace.
- Find out when new employees are hired and introduce yourself right away.

Things you need to get started in the shop steward role

- Copy of the **collective agreement(s)**
- List of members you represent that includes the following information:
 - names;
 - contact information;
 - **seniority;**
 - **job classification;**
 - work location; and
 - wage rate.

- Workplace and PSAC policies
- List of local/branch and union contacts
- Links to the following:
 - labour legislation pertaining to your workplace;
 - **human rights** legislation;
 - health and safety laws;
 - WHMIS (Workplace Hazardous Information System);
 - PSAC Constitution and regulations;
 - **component** and/or local/branch bylaws and resolutions of record;
 - PSAC national, component and regional shop steward webpages and e-tools;
 - new member kits with membership applications; and
 - seniority list.
- PSAC documents to have on hand or on your laptop:
 - Grievance Form (http://psacunion.ca/sites/psac/files/attachments/pdfs/grievance-form-bil_0.pdf);
 - Shop Steward Fact Sheet (http://psacunion.ca/sites/psac/files/attachments/pdfs/steward_factsheet_e_final_0.pdf), including the checklist in Section G;
 - Grievance Transmittal Form (http://psacunion.ca/sites/psac/files/attachments/pdfs/grievance-transmittal-bil-form_1_0.pdf); and
 - PSAC Shop Steward Tool Kit.
- Notepad
- Management and employer contact information

Preparing yourself

- Learn about the collective agreement – a legal document – that applies in your workplace:
 - Know the collective agreement index and provisions, and be able to find things quickly.
 - Know the limitations of the collective agreement.
 - Get clarification on clauses and articles that are not clear to you by talking to the chief shop steward and other shop stewards.
 - Know the grievance procedure, its steps and the associated time lines.

Remember, the union and employer often interpret collective agreement **language** differently. You may wish to contact other shop stewards, members of the local/branch executive, the negotiator or a union staff representative to help you understand how a clause/article has been applied in the past.

Regular shop steward meetings and discussions of the collective agreement will help you build your understanding and your capacity to provide representation. Ideally, the chief shop steward of your local/branch convenes such meetings. If not, take the initiative.

- Be familiar with employer policies and workplace rules. Members will sometimes be accused of contravening employer policies and be **disciplined** as a result. Your understanding of the policies and rules pertaining to discipline will help you provide representation to members in these circumstances. Reading employer newsletters, annual and financial reports, and anything pertaining to the employer in the news media will help build your knowledge of the employer and be alerted to future changes to the organization's policies and rules.
- Know the labour laws that apply to your workplace. You do not need to be a lawyer but having a working understanding of labour law will

be an advantage. Be familiar with human rights and health and safety legislation, since these will come into play in the workplace from time to time.

- Have a general knowledge of **arbitration** cases. PSAC has achieved many wins over the years (<http://psacunion.ca/topics/grievance-arbitration>), as have other unions, including those falling under the jurisdiction of the Public Service Labour Relations and Employment Board (http://pslreb-crtefp.gc.ca/decisions/decisionsbyyear_e.asp).
- Know the **duty of fair representation**. Both federal and provincial labour codes include clauses on the union's "duty of fair representation" – that is, that all employees in the **bargaining unit** (not just members who have signed their membership card) have the right to representation from their union. As a shop steward, you are at the frontline of this representation. Representation may not be **arbitrary, discriminatory** or carried out in **bad faith**. The union must serve and represent all employees in the bargaining unit equally. When you carry out your research and representation with due diligence and seek guidance from others in the union, you are providing fair representation.
- Understand the **working conditions** of the workplace. The production requirements – how the work is carried out – of any workplace inform its workflows and working conditions. Be sure to learn about any unique conditions or issues associated with your members' workplaces.
- Build a database to manage information pertaining to the following:
 - rates of pay;
 - seniority;
 - current and past grievances; and
 - individual member information (kept strictly confidential) – that is, anything to help you better know and represent the range of

members in the bargaining unit, including details of any problems they have had in their workplace.

- Know what is going on with your local/branch, component or PSAC region. To build the union and get more members engaged, find out what is happening. Communicate information about training, conferences, conventions and other activities to the membership.

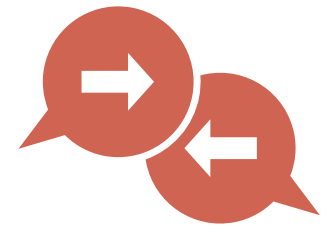


Photo: PSAC

- Know yourself. As you work as a shop steward, you will discover your areas of strength and your limitations. Remember that you do not need to be an expert. Build a basic understanding and continue to grow your knowledge and expertise. Model the behaviour of a lifelong learner. Union "know-it-alls" do not create a welcoming atmosphere of inclusion. When you come across something you do not know, seek advice and guidance.

The first step in being an effective communicator is to develop strong listening skills. People who listen command the respect of others.

The most successful unions and locals are those with active, engaged and informed members. Union stewards play a vital role in membership engagement, which is no easy task. Be proactive and inspired in how you reach out to members.



Being an effective shop steward

Effective **shop stewards** are good communicators, educators and organizers. You bring unique skills, knowledge, abilities and personality to the role, but there are some established attributes and skills to develop.

An effective shop steward gains the confidence and respect of members and the employer through his/her conduct. Always remember the following:

- **Be fair.** Listen to all points of view carefully. Listen to the members without prejudging them, their views or the situation.
- **Be connected.** Work with members to resolve issues.
- **Be enthusiastic.** Inspire people to become involved in the union and to take a stand on issues that are important to them.
- **Be courageous.** Stand up to the employer when the union's point of view needs to be heard. Do not be afraid to tell members when their interpretation or understanding is wrong.
- **Be efficient.** Secure all facts and necessary information, and seek justice in a fair and efficient manner.
- **Be informed.** Know your **collective agreement**, employer policies and procedures, relevant laws and regulations, the PSAC Constitution, regulations and policies, **component** and **local**/branch bylaws, and any workplace issues.



Photo: PSAC

Steward as communicator

- Stop talking. It is impossible to listen when you are talking; instead, actively listen to what a person is saying.
- Question what you do not understand; ask anyone you are speaking with whether he/she has any questions.
- Empathize. Put yourself in the other person's place and try to understand how he/she feels.
- Be objective. Listen with an open mind and do not impose your values or assumptions.
- Do not argue. Create space for others to share their values and

emotions. When you disagree with a point of view or opinion, respond in a clear and logical manner.

- Be assertive when the union perspective or policies are being ignored or challenged.
- Identify the issues that most resonate with your membership and use them as entry points to engagement in the local/branch.
- Manage criticism. Many members are positive about their union, others are indifferent and some may be very negative. Listen to the complaints, point out the positive elements and invite critics to help to make things better. When members persist in being negative, do not dwell on it. Rather, focus on the positive work being done.

Shop steward as educator

Shop stewards provide information, context and direction to individual members and to the membership as a whole. Shop stewards must be informed about union activities and initiatives, and must keep current by attending union training.

- Share information about the collective agreement, component or local/branch bylaws, the PSAC Constitution, policies and regulations, and employer policies and regulations.
- Help members interpret, understand and apply the collective agreement.
- Explain what your component or local/branch is doing on an issue and why.
- Provide union literature, information and resources to members.
- Respect members' experience; education is a two-way process in which shop stewards and members learn from each others' knowledge, experience and strengths.
- Promote the union, its benefits and the gains it has achieved.

Shop steward as organizer

- Be visible. Members need to know you and how to reach you. Determine the best way to be visible in your local/branch, such as posting information on the union bulletin board, handing out business cards and/or doing regular walkabouts in the workplace.
- Welcome new hires to the workplace and their union, and provide an orientation to the union. Some collective agreements have provisions for this to be done on employer time.
- Invite members to union meetings, training sessions, activities, rallies and conferences, while respecting their comfort level with participation.
- Focus on workers who pay **dues** but have not signed up to be part of the union (known as “Rands” after **the Rand Formula**). Explain to them the benefits of full participation in their union, including in elections and decision making. Also, work to sign up any members who are not in good standing.
- **Organize** around workplace issues and topics that motivate members.
- Consult the membership. Be democratic and inclusive, and create space for everyone to support or participate in local/branch initiatives.

Your actions as a shop steward speak volumes. Remember you are the face of the union in the workplace. How you conduct yourself reflects on the union as a whole.

- *Always act with honesty and integrity.*
- *Respect members' right to privacy.*
- *Avoid gossip.*
- *Do not take sides in conflicts between members; you represent all members.*
- *Be a champion for the duty of fair representation and the duty to accommodate.*

- *Know your facts before you speak. When you are uncertain, get the right information before replying to a question.*
- *Reflect on your strengths and in what areas you need to get stronger.*
- *Seek education, training, mentorship and support from the local/branch executive, chief shop steward, others in the component or PSAC regional office staff.*



Photo: PSAC

*Be respectful, responsible and reasonable in your job as a steward. This will strengthen your case if the employer tries to **discipline** you.*



Developing working relationships

Shop stewards and the employer represent the interests of their respective side. Developing a good working relationship with the employer representative may be helpful. However, never compromise the integrity of the **collective agreement** or the union simply to accommodate the employer.

Supervisors may be members of the **bargaining unit**. Take direction from your chief shop steward or local/branch executive on how to best handle this situation.

As a shop steward, ask yourself the following questions:

What if the supervisor refuses to work with me?

Let the person at the next higher level of management know that there is a problem. Explain what steps you have taken to try to improve the situation. If the supervisor is violating the collective agreement in any way, filing a **grievance** may be your best recourse. If the problem persists, talk to members of the local/branch executive and ask them to put pressure on the employer.

What if the supervisor asks me to do his/her job, to pass a message on to the members, for example?

It is not your job to communicate any employer/supervisor messages to members. Ask that this information be disseminated through the proper channels. While doing what the supervisor asks may seem, on the surface, as if you are working towards



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a cordial relationship, members may perceive you to be too aligned with management. This will diminish your credibility and members' trust. For example, if a supervisor asks you to let a member know he/she is taking too long for breaks, the member may think you are working on management's behalf.

Can I be disciplined even though I am a shop steward?

Possibly. Shop stewards do not have carte blanche. Members have a right to representation, and you have a duty to provide it. You need to be able to address the employer on members' behalf without fear of retaliation. But everything you do as a shop steward must comply with the collective agreement and entitlements under the law.

May I represent myself on a grievance?

When the grievance involves a matter covered by the collective agreement, no, you may not file a grievance on your own behalf, nor represent yourself. The union will file a grievance for you and assign someone to represent you.

When the grievance involves a non-collective agreement matter, you may file and act on your own behalf.

What do I do when a member comes to me with a question and I do not have the answer?

Be honest. Let the person know that you do not have the answer but that you will get the correct information from other union representatives (e.g. chief shop steward, more senior shop steward, union staff or member of local/branch executive) and respond right away. Make sure that you have sufficient notes and information to accurately convey the question and the circumstances around it to whomever you ask for help.



What is a grievance?

Note: This content is not intended to replace formal grievance-handling training. Introductory training (<http://psacunion.ca/course-descriptions-psac-online-learning>) is available online, while PSAC regional offices and some components offer advanced training.

As a **shop steward**, you will likely hear from members on a range of issues, many of which will be complaints that can be resolved through preliminary investigation, speaking with all the parties to the issue and developing a solution agreeable to everyone (see “[Problem-solving: What to do when a matter is not grievable](#)” (page 57)). Grievances are another matter entirely.

The **grievance** is a means for the union to protect members’ rights under the **collective agreement**. Filing a grievance is a legal right when there has been a violation of a right in the collective agreement and/or a member has been **disciplined** or **terminated**.

Types of grievance

Individual grievance: A complaint by an individual whose rights, as set out in the collective agreement, have been violated by management through, for example, discipline, **harassment**, denial of benefits or denial of entitlements.

You file the grievance on behalf of the member. Your job is to defend the collective agreement and protect the rights of all employees it covers.

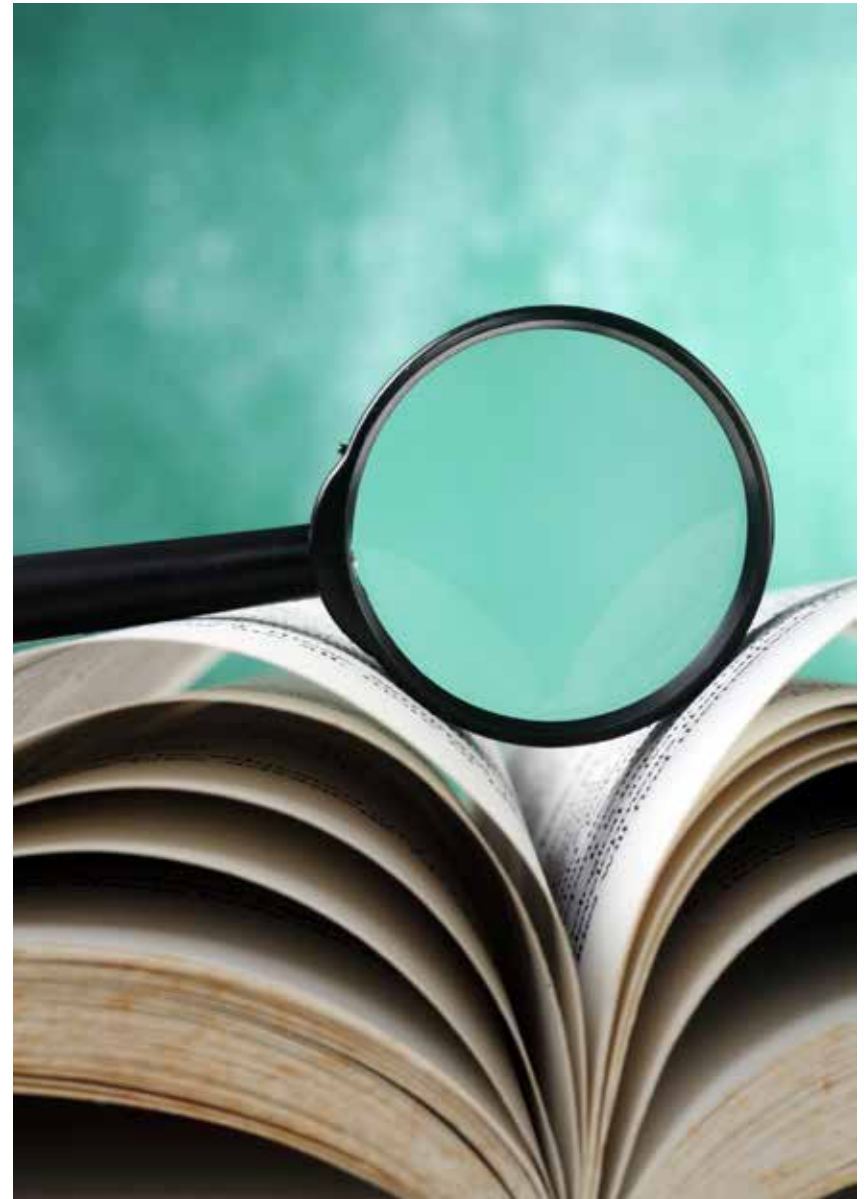
Group grievance: A complaint by, for example, a group of individuals, a department or a **shift** that has collectively been affected by a management action. Examples include the following:

- an employer refusing to pay a **shift differential** or **premium pay** when the contract entitles members to it;
- management unilaterally changing the start time of a shift; or
- an employer refusing to allow a group of members to take family-related leave, even though such leave is covered by the collective agreement.

You file the grievance on behalf of the group. All the members should sign the grievance, since **adjudicators/arbitrators** have been known to award compensation only to signatories.

Policy grievance: The union, not individual members, files a grievance when management or the employer violates or incorrectly interprets the collective agreement and a group, **bargaining unit** or the union at large is affected by this action. Policy grievances are not allowed in certain jurisdictions (labour codes define what may or may not be grieved).

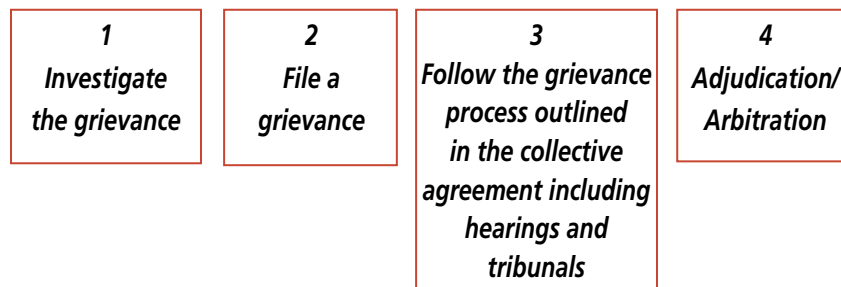
Union grievance (other than policy grievances, there are no other provisions for union grievances under the **Public Service Labour Relations Act**): The union grieves a dispute arising directly between the union and the employer. In this type of grievance, the union considers its rights to have been violated, not just the rights of members. For example, a union might grieve on its own behalf when the employer fails to deduct union **dues** as specified in the collective agreement. Check the language of your collective agreement to ensure there are no limitations on the redress or remedies available to individual members arising from union grievances. You may also have to file individual grievances in conjunction with the union grievance.



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Grievance procedure



The **collective agreement** describes how the union and the employer have agreed to handle **grievances**. Not following the procedure may mean that the employer can defeat the grievance.

Role of the shop steward

- *Decide which rights have been violated and determine whether a grievance exists.*
- *Listen to the member's story.*
- *Ask yourself whether management's or the employer's action violates the collective agreement, an established practice or a member's right?*
- *Respect the member's privacy.*

Review the grievance procedure article of your collective agreement

- *How does the grievance procedure work?*
- *How many steps are there?*
- *Who deals with the grievance at each step?*
- *What are the time limits for each step?*

Know how the procedure works and follow it carefully.

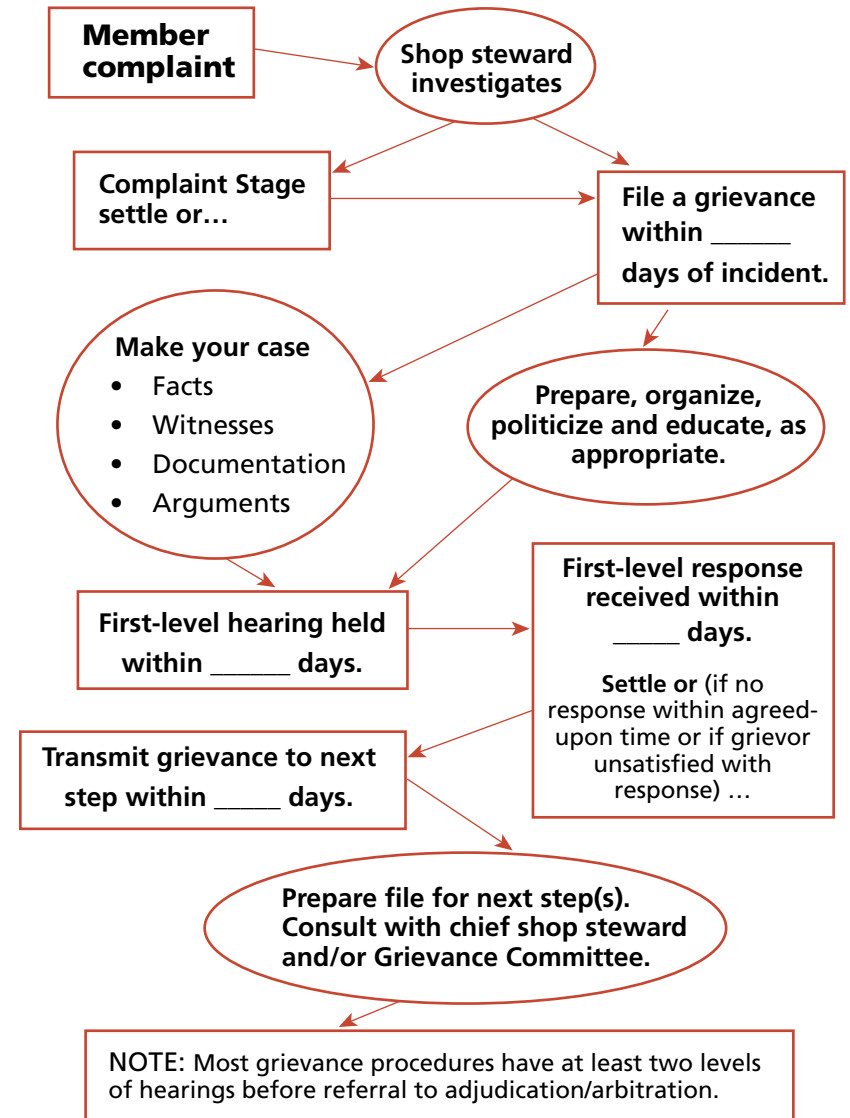
Member's withdrawal of a grievance

If the member chooses to withdraw the grievance, it is recommended that you do so in writing on his/her behalf using a phrase such as the following: "The union withdraws the grievance on a **without prejudice** basis." Doing so safeguards against the employer claiming that the union agrees with the actions the employer took that resulted in the grievance. It is best to state unequivocally that the union disapproves of the employer's actions even when the member does not wish to proceed with the grievance.



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FLOWCHART OF THE GRIEVANCE PROCEDURE (INITIAL STAGES)





Things to remember

Members will think you know more than you do. Ask questions about the nature of their work, their shifts and the relationship with their supervisor to learn as much as you can.

Never assume.

All your work is confidential. Do not disclose information to other members or to employer representatives. Be professional, courteous and discreet. Compare the member's testimony with that of witnesses, checking for inconsistencies. Sift through the evidence. Investigate promptly.



How to investigate a grievance

- Get the facts. Speak with witnesses. Ask questions. Listen carefully to the answers, getting as many details as possible. Take notes.
- Use the Shop Steward Fact Sheet (http://psacunion.ca/sites/psac/files/attachments/pdfs/steward_factsheet_e_final_0.pdf).
- Complete the fact sheet and keep it for your records.

Steps to follow

- Ask the member to write down his/her story and give it to you. Or, you can write down what the member tells you, read it back and ask the member to sign it.
- Talk to witnesses. Take notes about what they say. Ask them to write down their version of events or to sign what you write after they tell you their story and you read it back to them.
- Notice when you are making any assumptions about the member's story or about what the witnesses are saying – or not saying – and make sure you have the details straight.
- Ask the member to give you permission to view his/her employee file, so you can examine the full employment record. Determine whether there was any **discipline** in the past that may no longer be in the file.

Notes

Taking notes is an essential part of the your role when investigating a member's complaint. Every time you meet with the member or witnesses, make sure you take thorough notes. Document what you hear. Use quotations marks to indicate the exact wording of what anyone says. This is important evidence.

It is acceptable to talk to people more than once if you need to clarify something or seek additional information.

Use the 5 Ws

Who was involved?

- Who is/are the member(s) on whose behalf you will file the **grievance**? (Obtain their names, contact information and **PSAC ID** numbers.)
- Who are the supervisors/managers involved in the situation?
- Who in management has been spoken to about the situation so far?
- Who has the power to grant the **redress or remedy** requested?
- Who are the witnesses?
- Who can corroborate the member's version of events?
- Who will testify or provide signed statements?
- Who else has or has had a similar problem?
- Who will be affected by the outcome of the grievance?
- Who has the information you need?
- Whom do you need to consult?
- Who might give you advice?
- Who will provide representation during the next steps in the process?

What happened or failed to happen?

- What did the member(s) do or fail to do? What did management or the employer do or fail to do? Ask the member to prepare, sign and date a written account, noting in precise words the incident(s), and including names, dates, places, witnesses and actual quotes of things the parties involved said at the time.
- Is the matter covered by the collective agreement? Can it be referred to **adjudication/arbitration**?
- What kind of grievance is it (individual, group, policy)?

- What are the interests of management and/or the employer in solving/not solving the problem?
- What does the member want management and/or the employer to do to fix the problem?

When did it happen?

- For how long did the problem occur? When it is not one ongoing problem, instruct the member to be prepared to file a grievance for each new breach of the collective agreement.
- When did the member first start trying to address the problem? Make clear notes of the date, time of the events in question, whether it was on the day or night **shift**, whether it was at the beginning or end of a shift, and other information that can help you be as precise as possible about the problem.

Also be aware of the timelines associated with the grievance procedure, so that you know the deadline for filing the grievance, when the next steps will take place and what needs to be done to meet the various deadlines.

Why is this a violation of the collective agreement or of past practice?

- Why did this happen to this particular member or group of members? What are the various factors at play?
- Why do co-workers support or not support the member?
- Why did the member take or not take action in response to the violation?

Once you have done your investigation, try to fix the problem before filing a grievance. Statements obtained from the member and witnesses may help to settle the matter. Remember that anything you or the member says to the employer before filing the grievance will be "on the record." This means that the employer could use it as evidence during adjudication/arbitration.



Know the grievance timelines in your collective agreement

The collective agreement sets out deadlines for each step in the grievance procedure.

Give your grievance to the employer on time, and meet the deadlines for each step.

Ask the employer for an extension when you cannot meet a deadline.

Remember, however, that it may not be granted.

- *Get confirmation of the extension in writing.*
- *When the employer does not grant an extension, get advice from the chief shop steward, local executive, or component or PSAC staff about how to proceed.*

Not meeting a deadline for filing, processing or referring a grievance may result in the grievance being defeated.



Writing up the grievance

You have done your investigation and determined that the member's complaint is warranted. Keeping in mind the member's desired **redress or remedy**, you have tried to resolve the issue with the supervisor or management representatives but to no avail. It is now time to file a **grievance**.

Grievances may be won or lost depending on how they are worded. Writing the grievance is different from completing the Shop Steward Fact Sheet (http://psacunion.ca/sites/psac/files/attachments/pdfs/steward_factsheet_e_final_0.pdf), which you use to gather facts during your investigation. The fact sheet is a written record enabling the union to recall important information should the case go to **adjudication/arbitration**, which may take months.

Complete the PSAC Grievance Form (http://psacunion.ca/sites/psac/files/attachments/pdfs/grievance-form-bil_0.pdf) as accurately and legibly as possible.

Section 1

Enter the name of the member's **component** or **local**/branch, the local/branch number, and the member's **PSAC ID** number.

Section 1 A

Fill in the following information about the member:

- name;
- telephone numbers;
- home address;
- home and work email addresses;
- **job classification**;
- branch, division or section of employer organization;
- position title;
- work location;
- **shift**;
- **collective agreement**; and
- collective agreement expiry date.

Section 1 B

Provide the details of the grievance, describing the incident, and why it is a violation of the collective agreement, or the circumstances of the **discipline** or **termination**.

- Be sure to include the date of the violation.
- Indicate the article of the collective agreement breached, and refer to any other relevant article, to the collective agreement as a whole or to any relevant employer policy.

Provide only basic information—that is, the who, what, where and when of the violation. You will have the chance to argue the case, and provide more information, during the grievance procedure.

Section 1 C

Indicate the **redress or remedy** – that is, what the member/union wants. It is important to set this out in general terms, so that the redress or remedy can be as full as possible. You do not want to miss possible options for redress or remedy by narrowly stating the desired corrective action. It is always advisable to request that the corrective measures make the member and the union “whole.”

Have the member sign the grievance form.

Section 2

You or another **bargaining agent** representative signs on behalf of the union and fills in all the required information:

- name of the bargaining agent;
- **bargaining unit**;
- name of the local/branch representative; and
- representative’s phone numbers, mailing address, fax number and email address.

Section 3

This section is to be completed by the employer representative who receives the grievance, usually the immediate supervisor. Ensure that it

is completed and signed. Verify that all the information provided on the form is accurate.

Submitting the grievance

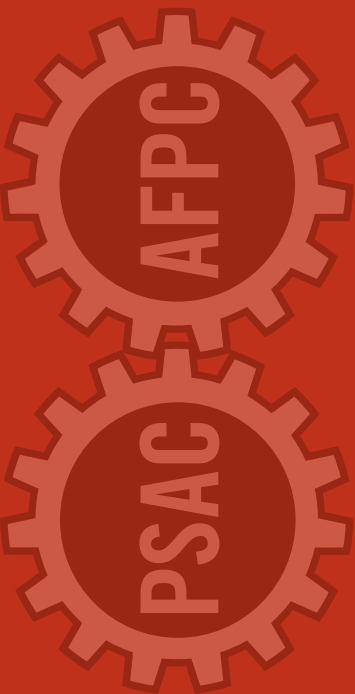
- Make copies for yourself, the member and the chief shop steward.
- File the completed grievance form with the appropriate employer representative.
- Note in Section D, “Time Limits,” of the Shop Steward Fact Sheet (http://psacunion.ca/sites/psac/files/attachments/pdfs/steward_factsheet_e_final_0.pdf) and in your calendar the dates for each of the steps in the grievance procedure (note that the number of steps differs by collective agreement):

- employer reply at level one;
- union response to employer;
- employer reply at level two; and
- union response to employer (date).
- Refer to the checklist in Section G of the Shop Steward Fact Sheet (http://psacunion.ca/sites/psac/files/attachments/pdfs/steward_factsheet_e_final_0.pdf) to ensure you have noted all the steps.

Who receives the grievance?

Find out who receives grievances on behalf of the employer. In most instances it is the immediate supervisor of the member who is making the complaint. Larger organizations, such as federal departments and agencies, may have delegated authority for receiving grievances to specific officials.

Carefully monitor the dates and make sure they are respected throughout the process. A missed union deadline means the employer has the right to dismiss the grievance. Under certain circumstances, it may be possible to have an **adjudicator/arbitrator** adjust the deadlines; however, these decisions are made on a case-by-case basis.



Grievance meetings

When you meet with a manager for the grievance meeting, you meet as equals. You are the union representative. The manager is the employer representative.

Some managers and shop stewards find it difficult to get used to this equal role, despite labour laws and collective agreements establishing equal status in labour relations in the workplace.

Remember that the “obey now and grieve later” principle applies during grievance meetings.

Wording is important

When presenting the grievance, use wording that positions you as a union representative. Say, “It is the union’s position that...” rather than using an “I” or “my” position statement.



Presenting the Grievance

The collective agreement outlines the grievance procedure

*You may be required to represent the member at the first or second level of the **grievance** procedure, depending on your **collective agreement** – that is, before the grievance is sent to the component service officer, the PSAC regional representative or a delegated representative. When the grievance is not successfully resolved, the union may decide to move to **adjudication/arbitration**, at which point the PSAC Representation Section carries the file forward.*

You meet with a manager, as the employer representative, to present the grievance.

Preparing for the grievance meeting

- Review the notes from your interviews, and seek clarification from the member and witnesses, as necessary. Make presentation notes for yourself, as necessary.
- When the member decides to attend the meeting, determine who will say what and who will answer the employer’s questions. Sometimes it is best for the member not to speak, except to clarify points.
- Decide which facts to present and the solution to be proposed.
- Decide whether there are facts you will not mention, either because they do not matter or because they may harm your case. You do not have to tell the employer everything you learned during your investigation.
- Try to anticipate the employer’s position in order to prepare yourself better.

During the meeting

How you conduct yourself in the meeting is fundamentally important. Remember the following:

- Be honest and truthful, being mindful that you do not have to disclose everything you learned in the investigation.
- If you are uncertain about how to respond to a question or are not sure whether to say anything at this time, let the employer representative know you will respond later.
- The employer representative hearing the grievance usually does not have the authority to agree to a settlement. Knowing this, consider how much of the case you want to disclose.
- Be assertive and clear in your presentation of facts, without being aggressive or hostile. Avoid threats, insults or bluffing. Be reasonable. Do not exaggerate. Stay calm and always be respectful, even when someone says something upsetting. Remain focused.
- Let the employer representative state the management's case.
- Listen to what the employer representative has to say. He or she may have more information about the complaint than you do.
- Do not talk too much. Overzealous shop stewards can talk themselves out of a case.
- Take good notes, including of the date of the meeting, the full names of everyone in attendance, and who said what and at what time.
- Use the note-taking time to digest what you are hearing before responding or deciding not to respond to a question. In other words, be strategic.
- Try to focus the discussion on how to solve the problem. Do not let the employer representative sidetrack you. The sooner a resolution is found, the better, since both sides will become entrenched in their



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position as times goes on, but do not make deals that run contrary to the **collective agreement**.

- The employer representative may state that the grievance is not valid or that it could not be arbitrated. This is for the union and the **adjudicator/arbitrator** to decide.

After the meeting

- Discuss and review the meeting with the member.
- Make a note of the date the employer must respond to the meeting.
- Begin to prepare to move to the next level if no settlement is proposed or the employer denies there is a problem.
- The employer representative may request an extension on the timelines to respond. Sometimes it is worth agreeing to this, since he/she may be trying to resolve the situation. You know your employer best and can decide whether agreeing to an extension is a good idea.
- If the employer representative does not reply by the deadline, and an extension has not been granted, you must proceed to the next level.



Understanding adjudication/arbitration

When the union and the employer have gone through the steps of the **grievance** procedure and have not been able to resolve the matter, it may be sent to **adjudication/arbitration**. This is the final step in the grievance procedure, when an impartial third party hears the grievance.

Whether the grievance is referred to an **adjudicator or an arbitrator** depends on the terms of the legislation covering the situation. When the legislation stipulates adjudication, the Public Service Labour Relations and Employment Board appoints the adjudicator. When arbitration is required, the union and employer normally mutually select the arbitrator. The adjudicator/arbitrator (on occasion, it will be a panel) listens to the union's and employer's evidence and arguments, and then makes a decision that is binding on both sides.

How the adjudication/arbitration process works

The adjudicator/arbitrator bases his/her decision on the following:

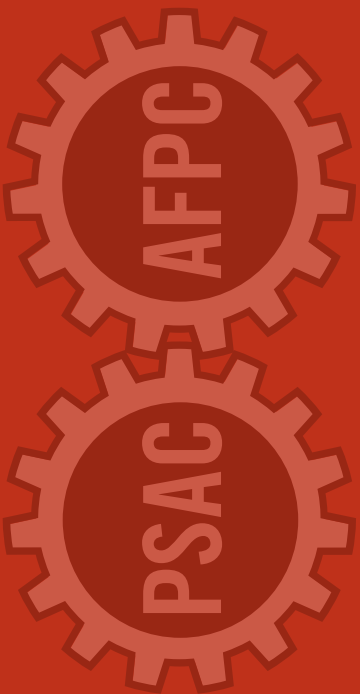
- what the **collective agreement** and laws say;
- the facts of the grievance;
- the evidence presented;
- witness credibility; and
- how similar cases that have gone to adjudication/arbitration were decided and which decisions are now considered "**case law**."

Resolving disagreements between the union and the employer about the meaning of the **language** of the collective agreement may require submitting a grievance to adjudication/arbitration.

- When the wording of the agreement is clear, it will usually stand up in adjudication/arbitration without other evidence.
- When the wording is unclear, an adjudicator/arbitrator will look at how the union and the employer have used the language in the past, and at the two parties' bargaining history.
- The adjudicator/arbitrator will look at the collective agreement as a whole. The union's position must be supported by the whole agreement, not just one part of it.
- What was the intent of the union and the employer when they negotiated the language? Someone from the bargaining team can provide the necessary background on this.
- Decisions from similar cases might show how the adjudicator/arbitrator will decide the current case, especially when the same union and employer are involved.
- A reasonable interpretation of the language will prevail over one that is unreasonable or absurd. The adjudicator/arbitrator decides what is "reasonable."



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*Discipline and discharge cases differ from other grievances in that the employer must prove “**just cause.**” In other grievances, the union must prove that the employer did something wrong.*



Discipline and discharge

Discipline and discharge cases can be difficult to deal with. The outcomes of these cases may be more serious than those of other kinds of grievances. The worst outcome is that the member is **discharged** and loses his/her job. The employer could also warn or suspend the member. In these cases, the member is often angry, upset and anxious about the possibility of losing his/her employment.

It may be difficult to know what really happened during the incident that led to the discipline or discharge. Sometimes stories change over time.

Your duty is to protect the member's rights and make sure the employer is following a fair process. When the employer takes action against the member that is not fair or violates the **collective agreement**, investigate and consider grieving the employer's actions.

At disciplinary meetings, sometimes you should do all the talking. Other times, it may be good to have the member tell his/her side of the story.

When the employer has solid evidence that the member did something wrong, it is usually a good idea to admit this and to say that it will not happen again.

*When, in your opinion, the discipline is severe or not warranted, encourage the member to file a **grievance**. Write to the member, setting out the union's view and informing the member of the deadline for filing a grievance.*

Representing a member who is being disciplined

Here are some questions to ask:

- Does the employer have just cause?
- Is the employer using **progressive discipline**? Does the “punishment fit the crime”?
- What else might be a factor? For example, is there a performance issue? Could the situation be related to an illness or disability?
- Is the employer accusing the member of **insubordination**? Did the employer give clear directions to the member?
- Are there **mitigating** factors, such as that the member has worked for the employer for a long time with no previous discipline on record, or that the member has had recent problems, such as a death or illness in the family, or a health concern.
- Are there **aggravating factors**, such as that the member ignored previous warnings?

Once the case has been fully investigated – see “[How to investigate a grievance](#)” (page 31) – decide which information to disclose at which stage of the grievance procedure. Plan your strategy for grievance meetings with the member, including who will say what. Decide whether there are things you will not say. If the meeting is called on short notice, ask for time to meet with the member beforehand.

When the member does not want to file a grievance, but you are of the view that he/she should, put this advice in writing. Counsel the member that the discipline may stay on his/her employee file indefinitely (unless the collective agreement expressly states that disciplinary letters are to be removed after a set period) and that it could be used against the member in the future. Records of warnings and **suspensions** can be used against



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an employee to justify severe discipline, particularly when the employer argues that the situation in question was a “**culminating incident**.”

When the member refuses to file a grievance, even though you have counselled him/her to do so, write to the member saying that you advised him/her to file a grievance and that the advice was refused. This written record establishes that it was the member, not the union, who did not want to file a grievance.



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Health and safety laws give workers the right to refuse work they believe is unsafe for them or for others. You should be familiar with situations in your workplace that may cause members to refuse unsafe work. It is important to talk to the local/branch executive about ways to force the employer to fix such problems. Making members aware of the proper way to refuse unsafe work when the employer does not take the appropriate steps is also important.

Refusing unsafe work

Workers providing **public services** have legal restrictions on when they can exercise their right to refuse dangerous work. A worker may not refuse to work in the following circumstances:

- the refusal to work puts the health and safety of another person (such as a patient or resident) at risk; and/or
- the hazard is a normal condition of the job (such as education assistants working with violent students or hospital staff being exposed to germs and disease).

Responding to a member's refusal to work

Become familiar with the health and safety legislation governing the right to refuse unsafe work in your workplace. What constitutes "danger" may vary depending on the law. Each jurisdiction has its own regulations to follow when guiding or representing members on the right to refuse.

It is important to have any member who contacts you about refusing unsafe work follow the procedures set out in this legislation, since he or she may be subject to **discipline**.

When the member followed the procedures for legally refusing to do unsafe work, but the employer disciplines him/her, the member may file a **grievance** with the employer or complain to the appropriate government agency, as indicated in the laws governing unsafe work.

Workers also have the right to participate in any investigation resulting from health and safety complaints, often through their health and safety committee or representative.

It takes courage to exercise the right to refuse unsafe work, but it may be the only way for workers to protect themselves. It could also save lives.

Here are some examples of working conditions that could be unsafe:

- *faulty machinery;*
- *violence or the threat of violence that could cause physical harm; and*
- *toxic air that has an immediate impact on members.*



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Q&A on grievances and adjudication/arbitration



1. *What does “obey now, grieve later” mean? Why is this important to me as a shop steward?*

Management has a right to assign work and employees must comply, even when the assignment does not seem to be appropriate. As a **shop steward**, always advise members to “obey now and grieve later.” This will prevent members from being **disciplined**.

However, there are times when a management order may be refused, for example, when a member is being asked to do something illegal, unsafe or unhealthy.

When you are uncertain about whether an order is legitimate, contact a member of the **local**/branch executive.

2. *As a shop steward, may I leave my workstation to represent a member who is being disciplined, even when a supervisor says I may not?*

You may only leave your workstation when the **collective agreement** expressly gives shop stewards the right to do so. Explain to the member that he/she has a right to be represented, that you are entitled to provide that representation and that the supervisor should check with his/her manager about whether you may leave your workstation.

When you are not allowed to leave your workstation to represent a member, file a **grievance** on behalf of the member. If you were denied the right to represent, the union may be able to file a grievance on your behalf and a policy grievance (when permissible) on its own behalf.

3. *What if I am uncertain whether a situation warrants a grievance?*

When the deadline to file the grievance is looming, ask management for an extension. If it is refused, complete the grievance form and submit it on time. It is always possible to withdraw the grievance if you later deem it not to be one.

Seek input from your chief shop steward, local/branch executive, **component** service officer or PSAC regional representative when you are uncertain.

4. What if the collective agreement has been violated but the member does not want to file a grievance?

One of your primary responsibilities as a shop steward is to safeguard the collective agreement. When violations of the collective agreement are not grieved, the employer could argue that the rights in question no longer exist because the union has not enforced them.

When policy or union grievances are allowed, you may be able to grieve the situation without the member's consent. When this is not possible, the union may choose to write to the employer stating that "due to the particular circumstances, the union is not grieving the violation, but this is **without prejudice** to our position that you violated the collective agreement."

5. Does a management representative have to meet with me about grievances?

Most grievance procedures include formal meetings with a management representative. These meetings can present a real opportunity to solve the problem. Other times they are simply about "going through the motions." Informal meetings can be a way to prevent or settle grievances.

If the management representative refuses to meet and misses the deadline for responding to the grievance, consider this a deemed denial of the grievance and prepare for the next step in the process.

6. Who owns the grievance?

Depending on your employer and the laws that govern labour relations in your workplace, a member may or may not be allowed to file a grievance or proceed to **adjudication/arbitration** without the approval and representation of the union.

7. Do I always have to file a grievance when the member wants me to?

Absolutely not, when the grievance concerns the collective agreement. Your role is to determine whether a complaint is, in fact, grievable. While you have to uphold the **duty of fair**

representation, you, not the member, determines whether the grievance will be filed. Listen to the member's concerns, investigate the complaint and decide on the proper course of action. Reach out to the chief shop steward, local/branch executive, component service officer or PSAC regional representative when you need direction. Once you have come up with a solution, explain to the member how you will work together to solve the problem.

8. Who decides whether a grievance goes to adjudication/arbitration?

PSAC's Representation Section makes this decision. The component service officer or PSAC regional representative refers the grievance there, with a recommendation to move to adjudication/arbitration. The Representation Section assesses the grievance and determines whether it will proceed.

9. Am I allowed to amend a grievance after it is filed?

Only limited amendments are permitted: dropping part of the grievance, fixing a typo or making an existing statement clearer. You may not amend a grievance to increase its scope, unless the employer agrees. Highlight, bold or underline the text of the accepted amendment and give copies to all parties.

10. Am I allowed to withdraw a grievance?

When the grievance concerns the collective agreement, the union may withdraw its support (and therefore the grievance as well) at any time, so long as the decision to do so is not **arbitrary** or **discriminatory** and has not been made in **bad faith**.

11. What is my role as a shop steward once someone else in the union takes responsibility for a grievance?

When a grievance cannot be settled, it is advanced to the next level as outlined in the collective agreement and following the established procedures of the local/branch. You hand over all documentation, while keeping a copy for your records. When the component service officer, PSAC regional representative or the Representation Section becomes responsible for the file, and at final adjudication/arbitration, your role is to support the member and the person carrying the file forward, as needed.



Involve the members

It is a good idea to involve the members whenever possible.

When members come to you with problems, ask them what they would like to see happen. What role would they like to play? How would they like other members to be involved?

Think about engaging and empowering members in all your work as a shop steward. It is easy to fall into the trap of being the expert and doing it all. This may seem like the most efficient approach but, more often than not, it results in burnout.



Problem-solving: What to do when a matter is not grievable

Clearly not every problem that members and **shop stewards** confront in the workplace can be the subject of a **grievance**. It is the shop steward's role to determine whether something is grievable.

Here are a number of ways you can solve problems without grieving:

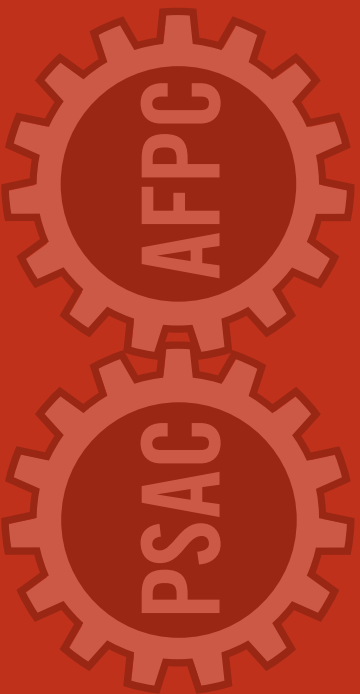
- Speak informally to supervisors about problems and try to arrive at solutions to which all parties agree.
- Pass along to the **local**/branch executive or chief shop steward problems that may be addressed at union-employer consultations, during negotiations or in other forums in which the union can affect change.
- **Organize** the membership to mobilize around issues that affect them, petitioning the employer, wearing buttons, wearing clothing of the same colour, or holding lunch and learn sessions, for example.

Do's

- Ask questions.
- Ask for advice.
- Listen.

Don'ts

- Make promises you cannot keep.
- Pretend to know more than you do.
- Make threats.
- Lie.
- Build unrealistic member expectations.



What is your conflict style?

*Do you prefer to avoid conflict?
If so, maybe you need to find
better ways to resolve problems.
Are you aggressive? If so, try to
step back and choose another
way that will work best for
everyone involved.*



Addressing member-to-member conflict

Conflict between people is a normal part of life, and can be helpful when it shakes people and organizations out of their old ways. Left unaddressed, though, conflict can poison the workplace.

People respond to conflict in various ways, and how they choose to deal with conflict influences the outcome:

- **Avoiding the conflict:** You probably do not get what you want and hoping the conflict goes away is not helpful for the relationship with the other person.
- **Letting the other person's demands prevail:** You do not get what you want but giving in may be good for the relationship.
- **Finding a compromise:** Both parties get something, and having everyone give up something is good for the relationship.
- **Attacking, controlling and defeating:** You may get your way but being aggressive in this manner is bad for the relationship.
- **Problem-solving:** You get something you want, and ensuring everyone else does too, is good for the relationship.

The employer is responsible for providing a safe and healthy workplace, so the involvement of the employer in resolving member-to-member conflict is necessary.

When a member comes to you about a conflict he/she is having with another member, try the following:

- Coach the member on how to deal with the conflict:
 - Understand the other person's point of view.
 - Separate the other person from the problem.
 - Reflect on what is really bothering the person.

- Approach the other person respectfully.
- Rehearse the interaction.
- Offer to discuss the situation with the two members, if they are open to you playing a role:
 - Choose a good time and place for the discussion.
 - Introduce yourself and the process you would like to use, getting their approval.
 - Ask each member to share his/her view of the conflict.
 - Actively listen and repeat what you hear in neutral language.
 - Identify the interests of each member by posing open-ended questions, such as, Why do you want to do that? What does that mean to you? What is the conflict about?
 - Find a solution by brainstorming with both members, helping them to choose the best solution together.
 - Talk to each member separately, if needed.
 - Follow up with the members to see how things turned out.

Note: Coaching and facilitating a discussion between two people requires skill, knowledge and experience. Assess your ability to undertake this role. If you are dealing with allegations of, for example, racism, sexism, ableism, homophobia or transphobia, consider whether you have the knowledge, understanding and experience required. If not, seek input from people who do, such as the equity representatives in your **local/branch**, **component** or PSAC region.

In addition, when there is a power relationship between the two members or the allegations are serious, assess whether coaching is the appropriate approach to resolving the conflict.

Lastly, assess whether the situation falls within the PSAC Statement of Principles. If so, review those policies that provide direction on how to handle the situation.

Taking sides

Shop stewards should avoid taking sides in member-to-member conflicts, unless the **collective agreement** or laws (such as **human rights** or health and safety legislation) clearly support one person's position. This would be the case, for example, when a member refuses to obey the "no scents" policy or is being **discriminatory**.

When mediating conflict

Do's

- Make sure both members want to participate.
- List the ground rules to keep the conversation peaceful.
- Keep the lines of communication open.
- Keep the discussion focussed on the topic.
- Try to bring out the interests that underlie each member's position.
- Make sure both members get to express themselves and be heard.

Why helping members solve their conflicts can be a smart move

- *It builds solidarity in the union and the workplace.*
- *It helps protect members from a toxic workplace.*
- *It helps prevent the employer from taking disciplinary action.*

Don'ts

- Take sides.
- Try to impose a solution.
- Criticize a member for being unreasonable.
- Make threats.

Harassment

Harassment involves unwelcome comments or actions that are known, or ought reasonably to be known, to be offensive, embarrassing, humiliating and demeaning. Harassment can be unintentional or intentional. Most harassment is ongoing but it can be a one-time occurrence in some circumstances.

Harassment based on a ground of **discrimination** in **human rights** legislation –such as race, ethnic background, sex, age, sexual orientation, gender identity, disability, family or marital status, religion or criminal record for which a pardon has been granted – is against the law. Since the grounds for discrimination vary by jurisdiction, learn about the ones in the legislation covering your workplace.

Workplace harassment policies must list the grounds covered by the human rights legislation. These policies may include a process governing personal harassment as well. Personal harassment does not have to be based on a **prohibited ground**.

Health and safety laws may ban harassment, including violence. Again, check the legislation in your jurisdiction.

Employers are responsible for providing a harassment- and violence-free workplace. Thus, the employer has an obligation to respond when harassment or violence occurs.

Sexual harassment involves a course of unwelcome comments or conduct based on an individual's sex or gender. Targets of sexual harassment can be people of the same sex or opposite sex. Human rights laws protect against sexual harassment under the "sex" ground of discrimination.

Examples of workplace harassment

- *Name calling, insults or threats*
- *Jokes and teasing about, for example, a person's culture, religion, way of speaking or body*
- *Posting of explicit pictures*
- *Written, verbal or physical abuse, including inappropriate or unwelcome touching and leering*

Examples of sexual harassment

- *Gender-related comments about a person's physical characteristics or mannerisms*
- *Paternalistic comments or conduct based on sex, which undermine a person's self-respect or position*
- *Unwelcome physical contact*
- *Suggestive or offensive remarks or innuendoes about members of a particular sex*
- *Propositions of physical intimacy*
- *Gender-related verbal abuse, threats or taunting*
- *Leering or inappropriate staring*
- *Braggs about sexual prowess, or questions or discussions about sexual activities*
- *Offensive jokes or comments of a sexual nature about an employee or client*
- *Displays of sexually offensive pictures, graffiti or other materials, including through electronic means*
- *Demands for dates or sexual favours*

Your role in addressing harassment

- Know your **collective agreement**, and the health and safety, and human rights laws that cover your workplace and how they define harassment. When harassment based on a prohibited ground occurs, file a grievance. When there is no specific **language** about harassment in the collective agreement, file a **grievance** anyway, citing the no-discrimination clause.
- Know your workplace's anti-harassment policy, including how it defines harassment, what happens when there is a harassment complaint, how such a complaint is investigated and the union's role in the investigation.
- Take steps to educate against and prevent harassment at union meetings and events.



Q&A on harassment

Take harassment complaints seriously

If you are not sure how to proceed when you receive a **harassment** complaint, ask for support from your chief shop steward, **local/branch** executive, **component** service officer or PSAC regional representative.

Do your best to quell gossip about harassment complaints. Your role is to treat the complaint with respect and maintain the confidentiality of those involved. Do not confirm or deny the complaint to other members who may ask about it, since it is not appropriate to discuss specific complaints. However, be open to others who may come to you because they, too, have experienced harassment.

1. What do I do when a member comes to me with an allegation of harassment?

- PSAC's Harassment in the Workplace Policy outlines the principles the union follows when investigating allegations of workplace harassment.
- Find out whether the conflict is a result of workplace issues. If so, let the member know that the employer is responsible for providing a harassment-free workplace and that you will investigate the complaint as a potential **grievance**.
- When the member who experienced the harassment wants to file a grievance, and you find grounds for a grievance, file the grievance against the employer for not providing a harassment-free workplace.

PSAC has a separate policy for dealing with member-against-member harassment at union events.

2. What if a member comes to me because the employer has disciplined him/her for harassing another member?

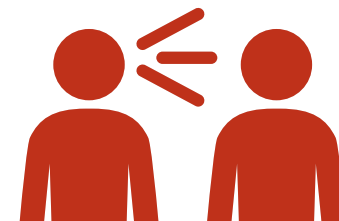
- Treat the member as you would a member in any other discipline-related situation. Make sure the employer uses a fair process when responding to the harassment complaint.
- Refer to “Discipline and discharge” (page 47) for more information.
- When the union has already investigated the matter, heard from all sides and agreed to support the harassment grievance, and the member seeking your assistance is the respondent, represent him/her only with respect to whether the discipline is excessive.
- When both members come to the union, the union has a legal and ethical duty to conduct a prima facie investigation into the matter. When, after conducting the investigation, the union decides to support the complainant, you represent the respondent only with respect to whether the discipline is excessive.

3. What if the member accused of harassment states that he/she did not mean it or that it was a joke?

- Explain to the member that his/her intent is not what matters. Rather, it is the content of the comment or action that will be addressed.
- Counsel the member that sometimes an apology goes a long way to repairing the damage.
- Help the member understand why what he/she said or did is hurtful and unacceptable. This may help prevent the situation from happening again.

4. What are the important questions I need to ask during a harassment investigation?

- What were the date, time and place of the alleged incident(s)?
- What kind of harassment was it (personal, racial, sexual or some other type)?
- Was there physical contact?
- What was the effect of the alleged harassment? Ask questions such as these:
 - Did the member feel unsafe?
 - Was the member denied a promotion?
 - Did the member have his/her position downgraded?
 - Was the member subject to discipline?
 - Was the member subject to a toxic work environment?
- Are there any physical or mental health effects of the alleged harassment?
- Did the member do or say anything to show that the harassing words or actions were not welcome? (Note that a member who has been harassed does NOT have to object in order to have a valid harassment complaint. Nonetheless, it is important for you to know whether he/she objected when you build your case for harassment.)
- Who is the alleged harasser: a supervisor, co-worker or someone the member deals with as part of his/her job, such as a client, patient or resident?
- Are there witnesses? Who are they? What did they see and hear?
- Are there documents related to the harassment, such as emails?
- Has this happened more than once?
- Has the member informed management of the harassment?



Dealing with workplace violence

Health and safety laws across Canada require employers to provide safe workplaces. Employers are expected to notice early warning signs of violence, prevent violence, and deal with violence and threats of violence when they happen.

Part II of the *Canada Labour Code* (<http://laws-lois.justice.gc.ca/eng/acts/l-2/page-22.html#h-46>) covers members in the federal public service and in other federally regulated sectors. Non-federal members fall under provincial or territorial legislation pertaining to workplace health and safety.

Canada's Criminal Code (<http://laws-lois.justice.gc.ca/eng/acts/C-46/index.html>) covers violent acts, threats of violence and actions such as stalking. When such acts happen at work, call the police right away. Report all cases of violence, or threats of violence, to management, the union, and the health and safety committee.

Shop stewards play a role in early detection of violence. Remember, workplace violence includes what people say as well as what they do.

Examples of workplace violence

- Making verbal threats
- Writing threatening notes or sending threatening emails
- Shaking a fist in someone's face
- Having or using a weapon or threatening to use one

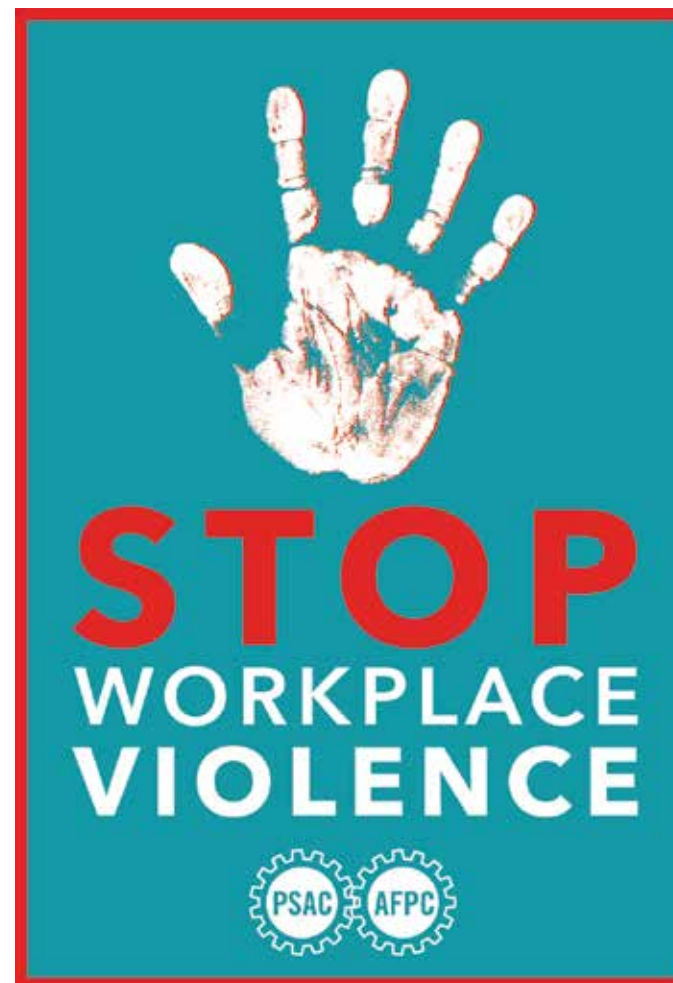
- Pushing, hitting or trying to push or hit someone
- Throwing something
- Spitting, biting or yelling
- Committing sexual violence
- Hitting, kicking or throwing an object
- Using a vehicle or piece of equipment to try to harm someone
- Committing domestic violence when there is a connection to the workplace

There are a number of things as shop steward you should know:

- how to get help quickly to stop the violence;
- how to contact security staff, when to set off alarms, and how to initiate lockdown procedures and any other workplace security measures;
- how to officially report threats of violence or violent events to management and the health and safety committee, including what form to fill out and to whom to submit it;
- how the employer investigates and deals with threats of violence or violent events;
- whether there are any rules in the workplace to protect workers from violence, such as no fighting or horseplay; and
- when to call the police or 911.

Members have a right to refuse unsafe work (see “Refusing unsafe work” (page 51). Unsafe work includes work to be carried out when there is a threat of physical violence – from co-workers, clients or the public – unless the risk of violence is considered part of the job.

However, federal legislation introduced in 2014 curtails federal employees’ right to refuse unsafe work by removing the **language** pertaining to “potential danger,” among other changes. Those assessing the danger are now political appointees.





The *Canadian Human Rights Act* (<http://laws-lois.justice.gc.ca/eng/acts/H%2D61>) defines a disability as a physical or mental condition characterized by both of the following:

- *It is permanent, ongoing, episodic or of some persistence.*
- *It substantially or significantly limits a person's ability to carry out some of life's important functions or activities, such as employment.*

Check your collective agreement and human rights legislation that applies in your jurisdiction for **language** related to disability and the **duty to accommodate**.

Note, however, that some of the language in legislation may be dated and not respectful of people with disabilities.

Disabilities in the Workplace

One of your roles as a **shop steward** is to protect **human rights** in the workplace. This includes the rights of members with disabilities. There are many kinds of disabilities:

- physical;
- mental (psychological or psychiatric);
- permanent, temporary and episodic (that is, the disability comes and goes);
- visible and non-visible; and
- **total** and partial.

Physical disabilities may result from an illness, injury, disease or aging, or may have existed since birth. A disability may affect a person's ability to coordinate or control his or her movement, move around independently, pull, push or pick up a certain amount of weight or certain types of objects, or develop, maintain or use muscle strength. A disability may also reduce a person's stamina or endurance.

As with all disabilities, invisible and mental health-related disabilities may not always affect the way someone performs his/her job. Invisible disabilities include the following:

- fibromyalgia;
- epilepsy;
- multiple chemical sensitivities;
- asthma;
- arthritis;
- intellectual disabilities;
- learning disabilities;
- multiple sclerosis;
- lupus;
- addictions; and
- aphasia (communication-related).

The following are examples of mental health-related disabilities:

- anxiety disorders, such as social anxiety, phobias and panic disorders;
- obsessive compulsive disorder;
- post-traumatic stress disorder;
- mood disorders, such as depression and bipolar disorder;
- schizophrenia;
- eating disorders;
- personality disorders; and
- attention deficit hyperactivity disorder.

As a shop steward, you may only become aware of a member's disability if the employer **disciplines** him/her for performance or when a member approaches you because he/she cannot perform duties as required. You may also observe changes in a member's behaviour, such as frequent absenteeism, missed deadlines and being withdrawn, that may lead to disciplinary actions or be causing problems with co-workers.

Under human rights laws, employers have a legal duty to accommodate workers with disabilities up to the point of **undue hardship**. Employers are obligated to proactively and on a case-by-case basis remove barriers that prevent people with disabilities from fully participating in the workplace. See "**Duty to accommodate**" (page 81) for more information.

If you suspect a member's disability is a factor in a discipline case or **grievance**, but he/she has not disclosed his/her disability, keep the following in mind:

- Many workers with disabilities do not want to share their medical details with the employer or the union.
- They might not want co-workers to know about their disability.

Find the right balance

Check your collective agreement and workplace policies to find out about accommodation processes. Your job is to find the right balance between how much medical information the employer needs to know and how much should stay private. If you are not sure, get advice from your local branch executive before providing information or advising the member to do so.

A member who is seeking accommodation must provide enough information to support his/her request. The employer does not always need to know the medical condition or have access to all medical details. But, in every case, the employer needs to know what the member can and cannot do at work (functional limitations and restrictions) and for how long accommodation is required, if necessary. In other words, the employer does not have the right to know the medical diagnosis but should receive the prognosis.

They might be afraid, for example, of stigma, stereotyping, lack of promotional opportunities and isolation, if the details of their disability were to become known.

- They may, due to a mental health-related disability, not realize they have a disability.

Your role is to build trust with the member or connect him/her with a trusted union representative. Ask whether there is anything you should know in order to represent the member well. Make sure he/she understands the employer's duty to accommodate and that workers with disabilities have rights. Also let the member know about the resources available should he/she need to speak to someone confidentially to get assistance with the situation, such as the employee assistance program, community resources and supports (for women and immigrants, for example) and mental health resources.

Points to remember

- You are not a doctor. It is not your (or the employer's) role to judge whether a member has a disability that may affect his/her work. This information must come from his/her health care provider, with the member's written permission.
- Build trust with the member. Ask the member what you may share with the employer. Write down and show the member what you are planning to share. Ask the member to give you consent to provide the information to the employer by signing and dating the page.
- To build trust, ensure you do not have or are not perceived to be in a conflict of interest — that is, you are not good friends with a co-worker or manager who is in conflict with the member.
- Respect the member's right to privacy. This is important in building a relationship of trust with the members and the employer.
- A member may not always be co-operative or willing to provide assistance due to his/her disability or life experience. Be patient, empathetic and respectful but remember that the member should not be inappropriate or disrespectful in interactions with you.
- Be proactive in finding solutions to a member's accommodation requirements and make sure the employer is moving forward with accommodation.



Mental health issues

Shop stewards are assisting members with mental health issues more than previously. These issues can be very complex.

Visit PSAC's mental health webpage (<http://psacunion.ca/topics/mental-health>) for more information and tools.

Do's

- Make members aware of mental health disabilities.
- Play your part to ensure a **harassment**-free workplace.
- Listen carefully and respectfully.
- Recognize signs of mental health disabilities, such as absenteeism, withdrawal and notable shifts in personality, in order to help members and direct them to appropriate resources.
- Find out what assistance and recourse routes are available in the workplace and community for members with mental disabilities.
- Be sure members know their rights.
- Help members navigate the various systems and recourse avenues, including informing them of their obligations (the need to provide medical certificates, for example).
- Use union expertise to create effective accommodation plans.
- Seek time extensions for members, when necessary.
- Help members accept the need for accommodation.
- Minimize conflict and stress for members.
- Respect members' confidentiality, unless they are a danger to themselves or others.

- Be flexible.
- Assume members know what is best for them.
- Always respect members' dignity.
- Document every interaction with members and the employer.
- Get assistance, when needed.

Don'ts

- Divulge confidential information.
- Label or stereotype members with mental health disabilities.
- Act like a counsellor/therapist or give advice on how to address the mental health issues in the workplace.
- Impose solutions or resolutions on members.
- Look for quick fixes.
- Talk down to members.
- Tolerate **discrimination**.
- Allow opportunities for sensitization to pass by.
- Stop assisting members because they are difficult or uncooperative.



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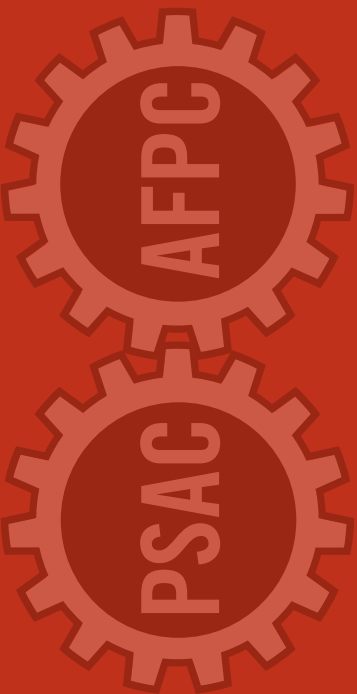


Photo: PSAC



Duty to accommodate

Employers and unions have a legal **duty to accommodate** workers who fall under the terms of **human rights laws**.

These laws differ from province to province, but the following are some common **prohibited grounds for discrimination** covered in human rights legislation:

- disability;
- ethnicity/nationality;
- sex;
- age;
- family status;
- marital status; and
- religion;
- criminal conviction for which a pardon has been granted.
- sexual orientation;
- race;

Human rights laws require employers to remove all barriers to employment in the workplace, including the following:

- attitudinal, such as a belief that deaf people or single mothers would not be suitable employees;
- structural, such as **shift** times; and
- physical, such as the need to lift heavy items;
- systemic/institutional, such as practices, policies and processes.

The most common accommodations are for disabilities, family/parental status (such as accommodations for pregnant workers) and religious beliefs (time for religious observances and dress code).

The employer or union may only refuse to accommodate someone when they can prove that any accommodation would cause “**undue hardship**.” The *Canadian Human Rights Act* (<http://laws-lois.justice.gc.ca/eng/acts/H%2D6/>) limits undue hardship to cost, health and safety; no other factors may be considered. However, legislation in other jurisdictions

defines “undue hardship” differently, so it is important that you are familiar with the relevant provisions in those laws. When legislation does not define “undue hardship,” then the list of facts to be considered grows to include employee morale, business inconvenience and customer preference.

It is important to understand that an accommodation can create some hardship for the employer. To meet the undue hardship test, however, requires the costs to be so substantial that they would alter the essential nature of the enterprise or so significant that they would substantially affect the viability of the organization.

The employer’s obligation

When an employee requests accommodation, the employer must do three things:

- determine what barriers might affect the person making the request;
- explore options to remove those barriers; and
- accommodate to the point of undue hardship.

It is beneficial for everyone when the union is consulted on how best to accommodate an employee. When the accommodation affects the collective agreement, such consultation is mandatory.

The union’s obligation

The employer is primarily responsible for accommodation, but the union can provide certain assistance:

- help find a reasonable accommodation that will suit the member;
- protect the member’s right to privacy as much as possible;
- not hinder the employer’s efforts to accommodate the member;
- look after the needs of all members in the **bargaining unit**; and

- suggest an alternative when the member and employer do not agree about a proposed accommodation.

Accommodation must be reasonable, not perfect

According to human rights law, the employer, the union and the member seeking accommodation must all be involved in finding a reasonable approach. As a shop steward, you might be involved in

Physical accommodation	Proactively removing barriers
<ul style="list-style-type: none"> • Create more space to allow wheelchairs in the workplace • Provide assistive devices • Install special computer equipment and software • Carry out ergonomic assessments 	<ul style="list-style-type: none"> • Adapt or adjust existing jobs • Study workplace standards and practices to see whether they result in unequal treatment or create barriers; rewrite them if they do • Change the way work is organized, or adjust the demands of the job
Work assignment	Be creative
<ul style="list-style-type: none"> • Modify member’s job • Move member to different job • Modify the different job • Create a new assignment by bundling tasks from different jobs 	<ul style="list-style-type: none"> • Do research to find possible accommodations • Create a room for religious prayers • Establish flexible working arrangements • Consult the employee requiring accommodation, since he/she may know what solutions are available

finding ways to accommodate members of your **local**/branch or you might refer these cases to someone else in your local/branch. There is no single way to provide accommodation, but here are some possibilities.

Bona Fide Occupational Requirement

“**Bona Fide Occupational Requirement (BFOR)**” is the legal term for the essential tasks required to perform a job. If an employer can establish a BFOR that cannot be modified/adapted for an accommodation, the employer may not have to accommodate a worker in that job. BFORs are not preferences; they are duties or elements that are essential to the job.

In order to successfully argue that a task is a BFOR, the employer must show that it cannot provide an accommodation without undue hardship, as per the Meiorin Supreme Court decision (<http://psacunion.ca/what-bona-fide-occupational-requirement-bfor>).

For example, while an employer may prefer workers to have a high school diploma for certain jobs or require them to be able to lift a certain weight by hand, it is not a BFOR unless the employer can demonstrate that the job cannot be done without that qualification being met. Preferences such as these may have the effect of screening out applicants or forcing existing workers out of the workplace unnecessarily.

Balancing seniority rights with the duty to accommodate

Sometimes the duty to accommodate can conflict with the **seniority** rights of other workers covered by the **collective agreement**. Seniority rights do not remove the duty to accommodate. But the union may have to override seniority rights to find a reasonable accommodation that does not create undue hardship. Keep in mind that if the union is a barrier during the accommodation process, or acts in a way that is **discriminatory**, it can be found liable for discrimination along with the employer.

Choosing an accommodation

Employees seeking accommodation do not have the right to choose the accommodation. Employees do, however, have a right to reasonable accommodation and, as such, should be allowed to give their opinion on the proposed solution.



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Communicating with other members about accommodation

It is important to protect the member's right to privacy by keeping details of a disability, including general information, private. You may say that the member is being accommodated but no more. In particular, any medical information must be kept confidential.

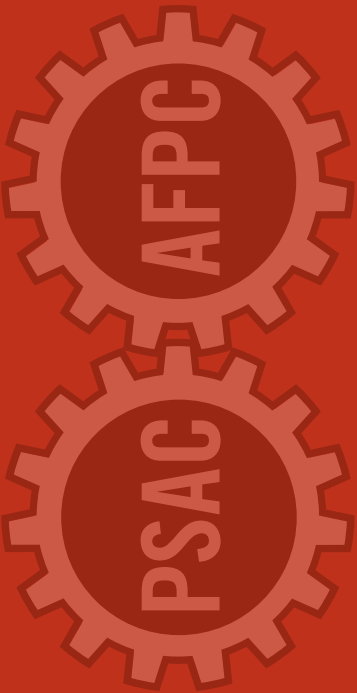
Members may wish to share their condition with others. Make sure that they understand the risks involved, in particular, that they will have no control over what other people say. However, the employer must treat as confidential any information it receives.



Disability insurance claims

Shop stewards may be asked to help members with Disability Insurance (DI) claims. It is important that you provide accurate information to members. Keep the following in mind:

- Often problems related to DI claims can be prevented through counselling from the departmental, agency or workplace human resources office. Most of the information should come from staff there.
- Try to help members understand the complexities of the Disability Insurance Plan; explain who does what in the union and how to contact them.
- PSAC represents members in the federal public service with DI claims at the Disability Insurance Board of Management.
- Members who are off work while on DI do not have to pay union **dues**.
- For Treasury Board and Agency members, the Disability Insurance (DI) Group Policy No. 12500-G between Treasury Board as policyholder and Sun Life explains what is covered. Information is available on the Treasury Board website (<http://www.tbs-sct.gc.ca/psm-fpfm/benefits-avantages/disability-invalidite/index-eng.asp>).
- Non-Treasury Board members' policies should be obtained and shared with PSAC when they are not already on file.
- Follow the guidance from the **component** service officer or PSAC regional representative on providing information and advice to members on DI and in building the case for representation of these members.
- Note the timelines in policies dealing with DI claims.



Canadian labour history 101

It is essential to have some background in Canadian labour history to help members understand that worker rights did not appear out of nowhere. Canadian workers realized early on that together their collective voices carry more weight.

Skilled and unskilled workers – including women and children – struggled to survive in the 19th century in Canada, since unions were illegal.

Nevertheless, workers did **organize**. They recognized that together they had a better chance at gaining basic rights. This was despite the fact that the penalties for even talking about forming a union were stiff, including fines, jail time and being shut out of the labour market. The terms “brother” and “sister” were adopted to protect the identity of individuals.

A brief timeline

1872: The Toronto Printers Guild mounted a campaign for a nine-hour working day. It was an election year and the prime minister, Sir John A. Macdonald, promised legislation to legalize union membership. Once elected, Macdonald introduced the *Trade Union Act*, which granted membership in unions but outlawed **strikes** and did not guarantee a union’s recognition by an employer.

1880s: The Knights of Labour organized more than 300 assemblies in 100 cities across Canada – though many were short-lived – attracting both skilled and unskilled workers. The Knights also organized unskilled men and women in many small towns. Over time, organization resulted in trades and **labour councils** forming. Workers at this time had no right to strike and no protections against employers’ retaliatory measures.

1886: The Trades and Labour Congress established a policy for the nine-hour working day, nationalization of the railways, minimum health and

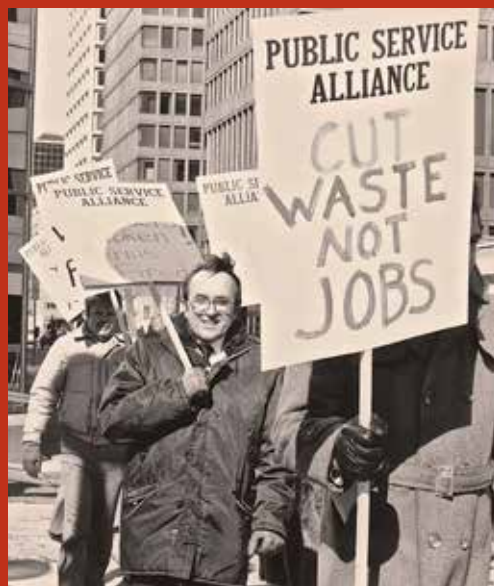


Photo: PSAC

safety conditions, the principle of equal pay for work of equal value, the abolition of child labour and universal access to education for children.

1900s: Labour activity escalated. Workers demanded universal eight-hour days, union recognition and better wages.

1919 and 1920: There were more than 1,500 strikes involving an estimated 375,000 workers. The largest was the Winnipeg General Strike of 1919, which involved more than 25,000 workers. The government used **strikebreakers**, police and the army to violently end the labour action.

1921: The Communist Party of Canada was founded, followed by the Co-operative Commonwealth Federation (CCF) in 1932. Both parties supported worker rights and were critical of capitalism. The CCF eventually became the New Democratic Party.

1937: Collective bargaining was first recognized following a strike by the United Auto Workers at the General Motors plant in Oshawa, Ontario.

1946: Justice Ivan Rand issued a landmark legal decision following a strike in Windsor, Ontario, involving 17,000 Ford workers. He granted the union the compulsory **check-off** of union **dues**. Rand ruled that all workers in a **bargaining unit** benefit from a union-negotiated collective agreement. Therefore, he reasoned, they must pay union dues, although they do not have to join the union. This became known as the **Rand Formula**.

Post-Second World War: This was an era of increased unionization in the public service. Teachers, nurses, social workers, professors and cultural workers (those employed in museums, orchestras and art galleries) all sought collective bargaining rights.

1970s, 1980s and 1990s: Pressures on unions grew under a vibrant and thriving neo-liberal agenda. Private sector unions faced plant closures in many manufacturing industries, along with employer demands to reduce wages and increase productivity. Public sector unions came under attack by federal and provincial governments as these governments attempted

to reduce spending and taxes, and to balance budgets. Legislation was introduced in many jurisdictions reversing union collective bargaining rights, and many jobs were lost to contractors.

2000s: Economic shifts continued and more manufacturing jobs disappeared. Canada's Big Three automakers (Ford, Chrysler and GM) closed plants and significantly reduced their Canadian workforce. Canada fared better than other countries in the international economic meltdown of 2008 but suffered more manufacturing losses. Public sector unions faced increasing cutbacks and concessions in collective bargaining. PSAC and other unions allocated monies to shoring up declining memberships and maintaining their collective bargaining power.

2010s: Canada's labour movement experienced even more hostility from various governments in the early years of this decade. The federal Conservatives intervened in negotiations, introducing back-to-work legislation even before strikes began. The Conservatives also moved to reduce bargaining power in the 2013 omnibus Budget legislation and sent a signal that the next round of bargaining would be hard for federal unions, including changing the negotiated sick-leave provisions. Governments reworked their labour legislation to erode union's bargaining power and some advocated for an American "right to work" model.

In 2015, the Liberals were elected and immediately signalled their intention to reverse much of the anti-labour legislation enacted by the Conservatives during their 10 years in power. The labour movement anticipated a more labour-friendly federal government under the Liberals with cautious optimism.

You may identify areas of deficiency in the collective agreement as a result of your work. These deficiencies should be addressed in future rounds of contract negotiations.



Photo: PSAC

Shop steward's authority

Your authority as a **shop steward** comes from **labour laws** that give unions the **basic rights to file a grievance and have the employer respond to it.**

The union has a right to take a grievance to **adjudication/arbitration** when the grievance is not resolved to its satisfaction.

Laws may also give unions rights in the workplace related to health and safety, and human rights.

The **collective agreement** may give additional rights in the workplace, including the following:

- setting deadlines for responses from the employer under the negotiated grievance procedure;
- doing union work on employer time;
- meeting members in the workplace;
- attending meetings to investigate problems; and
- attending meetings to represent members being disciplined.

When your collective agreement does not address an issue, the employer has the right to do what it wants for the most part, as long as it does not break the law.

*If the employer **harasses** you or your members due to union involvement, tackle this head-on. Good managers do not feel threatened by the union and make efforts to work constructively.*

AFPC

PSAC



Union rights by law

There are a number of labour laws that govern PSAC members, depending on where they work.

Members who work in federal public service departments and agencies fall under the **Public Service Labour Relations Act**. Members who work in other **federally regulated workplaces** are covered by the **Canada Labour Code**. Other members fall under provincial or territorial labour legislation.

There are basic union rights in all of these laws:

- the right to **organize** a union in the workplace (although some legislation may state that certain categories of workers are not employees or are professionals who may not form a union);
- the right to be a member of a union; and
- the right to participate in union activities.

The right to participate

Labour laws protect employees from employer interference in union activity. This prohibition is covered under **unfair labour practice clauses** that cover the following actions when carried out by the employer:

- interference in the formation or administration of a **local/branch**;
- interference with the representation of union members;
- attempt to prevent an employee from joining a union;
- **discrimination** against someone for being involved in lawful union activities; and
- intimidation, threats, penalties or restraints from exercising union rights.

Unfair labour practice guidelines

Unfair labour practices are very serious matters, not merely any “unfair” actions. Allegations must fit within a specific legal framework. Potential cases of this nature should be referred to the **component** or to PSAC regional office.

Patterns of behaviour that may indicate discrimination against union activity

- Assigning you, as a **shop steward**, more than your fair share of work or unfavourable work
- Taking away the more interesting parts of your job
- Hassling you about the length of your breaks while remaining flexible with others
- Assigning you too little work
- Deciding that your job performance is no longer satisfactory even when it has not changed
- Refusing to promote you because you spend too much time on union matters
- Complaining that you file too many **grievances**
- Threatening **discipline** should you continue to be involved in the union
- Noting in your evaluation that your job performance is affected by your union involvement

Over the years, unions have filed many unfair labour practice complaints to challenge the interference of employers in unions’ lawful activities. While not all such complaints have been successful, many have, contributing to **case law** that protects union activity. These decisions send a strong

message to employers that union rights must be taken seriously. Unions have also learned over the years that only serious matters should be brought forwards as unfair labour practice complaints – that is, that labour boards do not take kindly to frivolous or vexatious complaints.

Examples of employer conduct found to constitute unfair labour practices

- Belittling and intimidating an employee who files a **grievance**
- Making intimidating and/or threatening comments about the lost career advancement prospects of employees who file a grievance
- Threatening to remove certain benefits from employees unless grievances are withdrawn



Photo: Zoë Gemelli

- Threatening – in order to curb the number of “unwarranted” grievances – to document the activities and performance of union representatives who file and represent employees during grievances
- Withdrawing an offer of assignment to another post or job because an employee indicated he/she would file a grievance about one of the conditions of the assignment
- Withdrawing an acting appointment because an employee submitted a grievance while in the assignment
- Retaliating against an employee for testifying at an **adjudication/arbitration** hearing
- Making critical comments on the performance appraisal of an employee that refer to his/her conduct as a union representative during interaction with the employer
- Disciplining an employee for using an alleged commanding and disrespectful tone of voice to a manager while acting as a union representative
- Threatening disciplinary action against a union representative when he/she provided representation, arguing that this representation contravened the employer’s policy that employees may not act in an advocacy role on behalf of a client
- Threatening to discipline an employee when he/she did not withdraw as the union nominee on a community board because this role allegedly placed him/her in a conflict of interest with his/her job
- Taking disciplinary action against a federal public service employee who, as a union representative, publicly criticized a free trade agreement
- Chastising union representatives and reminding them that their rights to publicly criticize do not extend to condemning job cuts in a meeting with members of Parliament



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- Conducting focus group with employees during which bargaining issues were sometimes discussed
- Paying the legal fees of a suspended member who brought damages for libel and defamation against union representatives

Unfair labour practice decisions become case law informing future decisions of tribunals and **labour relations boards**. It is therefore important that unions be strategic about the merits of unfair labour practice complaints before them. PSAC analyzes each situation and sometimes decide against filing. This is because it is important that the union not proceed with complaints that do not have a strong likelihood of success and could result in unfavourable case law. Even the ruling of a “neutral” labour board or tribunal on a complaint could be seen as a tacit stamp of approval of employer conduct – that is, such conduct would be deemed lawful in the future.

It is therefore extremely important that unfair labour practice complaints are not filed for reasons that are emotionally based and that they do not move forward without thorough analysis of the potential long-term implications for all unions.



Common labour terms

ADJUDICATION: Process for settling grievances by a third party when they arise out of the interpretation or application of a collective agreement or an award determined through arbitration, or out of disciplinary action resulting in financial loss or penalty (i.e. discharge, suspension). Normally used for public service units covered by the *Public Service Labour Relations Act* (<http://laws-lois.justice.gc.ca/eng/acts/p-33.3/>; see **arbitration**).

ADJUDICATOR/ARBITRATOR: Independent person (or chair of a panel), usually chosen by both the employer and union, and sometimes appointed by the government. This third party renders a final and binding decision, to which all parties must adhere.

AGGRAVATING FACTORS: Something that the member does that makes their situation worse; ignoring early warnings, for example.

ALTERNATIVE DISPUTE RESOLUTION: Practices such as mediation, negotiation, facilitation and conflict management that allow individuals and groups to resolve conflicts.

ARBITRARY: Abrupt, insensitive, indifferent; something done or said without much thought or investigation.

ARBITRATION: Method of settling disputes through the intervention of a third party – an individual or a board/panel – whose decision is final and binding.

BAD FAITH: Act done for the wrong reason; for example, acting to harm or degrade someone, or to get revenge, including lying or acting with an improper motive.

BARGAINING AGENT: Union designated by a labour relations board or similar government agency (for example, the Public Service Labour Relations and Employment Board) as the exclusive representative of all employees in a bargaining unit for the purposes of collective bargaining.

BARGAINING UNIT: Unit of employees grouped together by a labour relations board or similar body, for representation by a union for the purpose of collective bargaining.

BONA FIDE OCCUPATIONAL REQUIREMENT (BFOR): Legal term for the essential tasks required to perform a job. If an employer can establish a particular BFOR that cannot be modified/adapted for an accommodation, the employer may not have to accommodate a worker in that job. BFORs are not preferences; they are duties or elements that are essential to the job. Before the employer can establish a BFOR defence, the employer must show that it cannot accommodate without undue hardship.

CANADA LABOUR CODE (<http://laws-lois.justice.gc.ca/eng/acts/l-2/>): Act of Parliament that consolidates certain statutes respecting labour. The objective of the code is to facilitate production by controlling strikes and lockouts, setting out occupational safety and health requirements, and stating some employment standards.

CANADIAN LABOUR CONGRESS: Canada's national labour body, which represents the interests of organized labour.

CASE LAW: Decisions made in the past by courts, arbitrators/adjudicators, tribunals, human rights commissions and labour boards that indicate how someone might decide a new case. Often referred to as "jurisprudence" or "common law."

CHECK-OFF: Clause in a collective agreement authorizing an employer to deduct union dues, and sometimes other assessments, and to transmit these funds to the union (see **Rand Formula**).

CLASSIFICATION PLAN: Job evaluation process based on a comparison of jobs using factors or aspects of work.

COLLECTIVE AGREEMENT (also referred to as a "contract" or "collective bargaining agreement"): Contract between the union acting as the bargaining agent and the employer, covering wages, hours of work, working conditions (but not all terms and conditions of employment),

benefits, rights of workers and the union, and procedures to be followed when settling disputes and grievances.

COMPONENT: Organized group of members, locals or branches established in accordance with the PSAC Constitution and deriving its jurisdiction, authority and rights from section 9 of the Constitution.

CONTRACT: See **collective agreement**.

CONTRACTING OUT: Employer having work performed by an outside contractor and not by regular employees in the union. Not to be confused with subcontracting, which when a contractor delegates part of his/her work to another contractor.

CONTRACT PROPOSALS: Proposed changes to the collective agreement put forward by the union or employer, and subject to collective bargaining.

COST-OF-LIVING ALLOWANCE: Periodic pay increases based on changes in the Consumer Price Index.

CULMINATING INCIDENT: Final act or misconduct of an employee that, in the employer's view, deserves a severe response (usually discharge), because the employee has been disciplined before and the employer has followed the process for progressive discipline.

DISCIPLINE: Means by which supervisors correct behavioural deficiencies and ensure adherence to established organizational rules. Discipline may include issuing written reprimands, letters of warning and letters of suspensions. However if, after progressive discipline or in the case of a serious single act of misconduct, the employer no longer sees the employment relationship as viable, termination may ensue.

DISCHARGE (also referred to as "dismissal"): Employee's employment is terminated; often describes situations in which there has been, in the employer's view, misconduct or poor performance.

DISCRIMINATION: Treating a person or a group of people differently from others, in violation of collective agreements and human rights legislation.

DUES: Periodic payments by union members for the financial support of their union.

DUTY OF FAIR REPRESENTATION: Union's legal duty to provide fair representation to all employees in a bargaining unit; representation must not be arbitrary, discriminatory or in bad faith.

DUTY TO ACCOMMODATE: Legal requirement for employers to proactively eliminate employment standards, practices, policies, requirements, procedures or rules that discriminate against individuals or groups on the basis of a prohibited ground, such as race, sex, disability, age or family status.

EMPLOYMENT EQUITY: Ensuring equitable represented of groups such as women, Aboriginal people, racialized people and people with disabilities in the workplace, through hiring, promotion, wages and other aspects of employment. Employment equity activities seek to eliminate barriers that create discriminatory practices and deny access to jobs to members of a designated group, and to address past discriminatory practices.

EMPLOYMENT STANDARDS: Minimum standards established by governments that employers and employees must follow.

FEDERALLY REGULATED WORKPLACES: Businesses and industries that operate across provincial and territorial borders, including banks, marine shipping and air transport firms, railways, telephone, internet and cable companies, First Nations enterprises and federal Crown corporations.

FEDERATION OF LABOUR: Grouping of local unions and labour councils in a given province; chartered by the Canadian Labour Congress.

GRIEVANCE: Written complaint against the employer by one or more employees or a union concerning an alleged breach of the collective agreement or an alleged injustice. The collective agreement usually defines the procedure for handling grievances. The last step of the procedure is usually adjudication/arbitration.

HARASSMENT: Using real or perceived power to abuse, devalue or humiliate someone through, for example, name-calling, jokes, graffiti, insults, threats, rude treatment, or written, verbal or physical abuse. It can happen once or often, and is prohibited by human rights laws. Personal harassment (harassment not based on a prohibited ground for discrimination) is also covered by some collective agreements, provincial legislation and workplace policies.

HUMAN RIGHTS: Legal protection against discrimination on certain grounds, which vary federally and provincially/territorially.

INJUNCTION: Court order restraining an employer or union from committing or engaging in certain acts.

INSUBORDINATION (includes gross disrespect): Refusing to carry out an instruction given by a supervisor or manager. This is just cause for discipline when the supervisor or someone else in a position of authority gave the employee an order; the order was clearly communicated to the employee; and the employee refused to obey the order without having an acceptable legal reason.

INTERNATIONAL LABOUR ORGANIZATION: Tripartite United Nations agency representing labour, management and government. Headquartered in Geneva, Switzerland, it disseminates labour information and sets minimum international labour standards called "conventions," which it offers to member nations for adoption.

JOB CLASSIFICATION: Group of jobs paid at the same wage rate or that involve the same kind of work.

JOB EVALUATION PLAN: Measurement tool used to evaluate work and establish relativity among positions in order to assign a rate of pay to a given job. To be in accordance with human rights legislation, a job evaluation plan should be gender-neutral and include factors of skill, effort, responsibility and working conditions.

JOB SECURITY: Provision in a collective agreement protecting a worker's job when, for example, new methods or machines are introduced.

JUST CAUSE: Valid reason to discipline or fire a worker. The worker must have done something wrong, and the "punishment must fit the crime."

LABOUR COUNCIL: Organization composed of locals/branches of Canadian Labour Congress-affiliated unions in a given community or district.

LABOUR RELATIONS BOARD: Board established under provincial or federal labour relations legislation to administer labour law, including certifying trade unions as bargaining agents, investigating unfair labour practices and performing other functions described in the legislation.

LANGUAGE: Words used in a collective agreement to define the rights and obligations to which the union and the employer have agreed. Sometimes the union and the employer do not agree on the meaning of the words. The grievance procedure can be used to resolve such disputes, including seeking adjudication/arbitration to decide what the language means.

LAYOFFS: Temporary, prolonged or final separation from employment as a result of a lack of work.

LEAVE OF ABSENCE: Period of time when an employee is away from work, with the employer's permission or because the leave is permitted by law (maternity leave, for example). Depending on the collective agreement and the type of leave, the employee may or may not earn seniority while away. The person is still considered an employee while on leave.

LOCAL (also known as a "branch"): The basic unit of union organization. Trade unions are usually divided into a number of locals.

LOCKOUT: Phase of a labour dispute in which the employer refuses work to employees or closes its establishment in order to force settlement on its terms.

MEDIATION: Voluntary process whereby a mediator helps parties negotiate a settlement.

MITIGATING FACTORS: Reasons that might justify or explain someone's behaviour, or result in a reduced penalty; for example, the person has no previous history of discipline or has suffered recent personal difficulties.

ORGANIZING: Plan or process to organize unorganized workers to form part of a union.

ORGANIZING MODEL: Approach to running the local that puts membership involvement at the centre of each union activity.

OVERTIME: Hours worked in excess of the regular number of hours fixed by statute or collective agreement.

OVERTIME RATE: Higher rate of pay for overtime hours worked (see [overtime](#)).

PAY EQUITY: Principle of equal pay for work of equal value, which requires that female-dominated groups be paid at the same level as male-dominated groups for work that is judged to be of equal value. A methodology is used to identify wage gaps, and the salary for women doing that work in question is raised to that of the men.

PICKETING: Patrolling near an employer's place of business by members to publicize the existence of a labour dispute, hurt the employer's productivity, persuade workers to join a strike or the union, and discourage customers from buying or using employer's goods or services.

PREMIUM PAY: Wage rate higher than straight time, payable for overtime work, work on holidays or scheduled days off, or for work under extraordinary conditions such as carrying out dangerous, dirty or unpleasant tasks.

PRIVATIZATION: The transfer of publicly owned resources and services, such as roads, utilities, airports and national parks, to private ownership. In many cases, government still regulates the standards for service operation and maintenance of resources.

PROGRESSIVE DISCIPLINE: Step-by-step approach to discipline. The process often starts with verbal warnings and then moves to written warnings, paid or unpaid suspensions, and, finally, discharge. In general, employers are expected to have just cause and to use progressive discipline to correct misconduct. In cases of serious misconduct, the employer may skip some steps.

PROHIBITED GROUNDS OF DISCRIMINATION: Grounds of discrimination listed in human rights legislation. It is discriminatory to treat people differently, negatively or adversely based on these grounds.

PSAC ID: Identification number printed on the PSAC Membership Card, and the number recognized by the PSAC digital membership system. All members (full and Rand) are assigned a number.

PUBLIC SERVICE LABOUR RELATIONS ACT (<http://laws-lois.justice.gc.ca/eng/acts/p-33.3/>): Act respecting labour relations in the federal public service.

PUBLIC SERVICES: Services provided by a government to people living within its jurisdiction (municipal, provincial or federal), either directly through the public sector and its workers, or by providing financing so the services can be provided by another means.

RAIDING: Attempt by one union to induce members of another union to join its ranks.

RAND FORMULA: Clause in a collective agreement or law stating that the employer agrees to deduct an amount equal to the union dues from the pay of all members of the bargaining unit, regardless of whether they are members of the union for the duration of the collective agreement. The Rand Formula is based on the principle that those who benefit from a collective agreement should contribute dues, even when they are not members of the union (see [check-off](#)).

REDRESS OR REMEDY: What the union asks the employer to do to fix the problem that is the subject of a grievance (“making the member

whole”; in other words, taking action that will make it like the member never experienced the problem).

REINSTATEMENT: Return to work after discharge. The terms of the reinstatement can be set out in a settlement agreement or they may be ordered by an arbitrator/adjudicator, labour board or human rights tribunal.

SCOPE OF THE BARGAINING UNIT: Description of who is in the bargaining unit represented by the union.

SENIORITY: Employee’s status relative to other employees, for determining order of layoff, promotion, recall, transfer and vacations. Can be based on length of service alone or on additional factors such as ability or union duties, depending on the provisions of the collective agreement.

SERVICE: Length of time an employee has worked for an employer, not just been in the bargaining unit. Benefits such as vacation entitlements are often linked to length of service.

SEXUAL HARASSMENT: Vexatious conduct, including touching, and written or verbal comments of a sexual nature, that the harasser knows is unwelcome or that a reasonable person would know is unwelcome. Sexual harassment affects the targeted person’s dignity and self-respect. Employers are responsible for protecting employees from sexual harassment.

SHIFT: Rotating hours of work scheduled on an irregular basis.

SHIFT DIFFERENTIAL: Added pay for work performed during other than regular daytime hours.

SLOWDOWN: Deliberate lessening of work effort without an actual strike, to force concessions from the employer. Variation is a work-to-rule strike: a concerted slowdown in which workers simply obey all laws and rules applying to their work.

SPLIT SHIFT: Division of an employee’s daily working time into two or more periods, to meet peak needs.

SHOP STEWARD (also known as “union steward” or “steward”): Union official who represents a group of members and the union in union duties, grievance matters and other employment-related situations. Shop stewards are usually part of the work force they represent.

STRIKE: Cessation of work, or a refusal to work or to continue work, by employees to compel an employer to agree to terms or conditions of employment. Usually, this is the last stage of collective bargaining when all other means have failed. Except in special cases, strikes are legal when a collective agreement is not in force. A “rotating strike” is a strike organized in such a way that only some employees stop work at any given time, each group taking its turn. A “sympathy strike” is a strike by workers not directly involved in a labour dispute to show solidarity and bring pressure on an employer. A “wildcat strike” is a strike violating the collective agreement and not authorized by the union.

STRIKEBREAKER/SCAB: Person who continues to work or who accepts employment to replace workers who are on strike. By filling striking workers’ jobs, strikebreakers weaken or break the strike. The anti-union term for a strikebreaker is a “replacement worker.”

STRIKE VOTE: Vote conducted among union members to determine whether to go on strike.

SUSPENSION: Time (paid or unpaid) when an employee is not allowed to work, usually during an investigation or as a form of discipline.

TECHNOLOGICAL CHANGE: Technical changes in operational machinery or office equipment, new production techniques, change of work processes, such as homeworking/teleworking and work outside normal work locations.

TELEWORK: Work done away from the normal places of work such as offices or factories; performed instead in workers’ homes, in cars and airplanes, or in another country. The application of technology has greatly facilitated this technological change.

TERMINATION: Employment ends for any reason, including layoff, discharge or dismissal for just cause, non-disciplinary termination or the employee’s resignation.

TOTAL, FULL OR COMPLETE DISABILITY: Employee is unable to perform any of his/her job duties because of an injury or illness.

TRADE UNION: Workers organized into a voluntary association to further their mutual interests with respect to wages, hours, working conditions and other matters.

TRANSFER: Moving to another position, job, department, classification or location with the same employer.

UNDUE HARDSHIP: The point after which employers are not obliged to provide an accommodation, as measured by the following:

- Costs would be so high that they would significantly affect the employer’s ability to do business or provide services.
- A change in operations would be so disruptive that the employer could not survive.
- There would be too many negative impacts on workers’ rights under the collective agreement.
- Health and safety concerns would outweigh the benefits of the accommodation.

UNFAIR LABOUR PRACTICE: An employer or union breaks a labour law. For example, the union might complain that the employer is discriminating against the local/branch president or the employer might complain that the union is staging a “wildcat” strike. Labour laws provide processes for filing unfair labour practice complaints with the labour board. A member filing against his/her union files what is known as a duty of fair representation complaint.

WITHOUT PREJUDICE: Statement (e.g. “We withdraw the grievance, without prejudice.”) that current action will not affect future rights and actions, even when the facts are the same.

WORKING CONDITIONS: Conditions pertaining to the workers’ job environment, such as hours of work, safety, paid holidays and vacations, rest periods, free clothing or uniforms, and possibilities for advancement. Many of these are included in the collective agreement and are subject to collective bargaining.

WORK-TO-RULE: See [slowdown](#).



Photo: PSAC

Download form at psacunion.ca/shop-stewards

Steward Fact Sheet – page 1

Shop Steward Fact Sheet

The PSAC 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:* _____ Email:* _____

Bargaining Unit: _____ Classification: _____

Employer or Department: _____ Branch or Section: _____

* Please note that the employer can access your communications, whether by email or fax. Also, email traffic might fall under the “use of employer facilities” policies and could be disclosed through an access to information request.

2010

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 Employer Witness | Provided Statement |

Willing to testify: Yes No 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: _____

Download form at psacunion.ca/shop-stewards

Download form at psacunion.ca/shop-stewards

Grievance Form Formulaire de griefs

EMPLOYER'S GRIEVANCE NO. / N° DE GRIEF DE L'EMPLOYEUR : _____

SECTION 1 Comp/Direct Charter Local / Éléments/Section locale à charte directe _____ Local / Section locale _____ PSAC ID / N° de membre _____

Surname / Nom de famille	Given names / Prénoms	Home Tel / Tél. (maison) ()	Work Tel / Tél. (travail) ()
Home address / Adresse du domicile		Postal Code / Code postal	Cell No. / N° cellulaire ()
Home Email / Courriel personnel		Work Email / Courriel professionnel	
Employee Classification / Classification de l'employé(e)		Branch/Division/Section / Direction/Division/Section	
Position Title / Titre du poste	Work location / Lieu de travail	Shift / Quart de travail	
Collective Agreement (if applicable) / Convention collective (s'il y a lieu)		Expiry Date of Collective Agreement Date d'expiration de la convention collective	

Grievance details / Énoncé du grief :

(Please attach extra sheets if this space is insufficient / Utiliser d'autres feuilles au besoin.)

Corrective Action Requested / Mesures correctives demandées

Employee signature / Signature de l'employée ou de l'employé _____ Date _____

**SECTION 2 TO BE COMPLETED BY BARGAINING AGENT REPRESENTATIVE
À REMPLIR PAR LE REPRÉSENTANT DE L'AGENT NÉGOCIATEUR**

Signature of bargaining agent representative / Signature du représentant de l'agent négociateur _____ Date _____

Bargaining agent / Agent négociateur	Bargaining unit/component / Unité de négociation/Élément
Name of local bargaining agent representative / Nom du représentant local de l'agent négociateur	Telephone No. / N° de téléphone _____ Facsimile No. / N° de télécopieur _____
Address for contact / Adresse aux fins de communication	
E-mail address / Adresse électronique	

**SECTION 3 TO BE COMPLETED BY IMMEDIATE SUPERVISOR OR OTHER MANAGEMENT REPRESENTATIVE
À REMPLIR PAR LE SUPERVISEUR IMMÉDIAT OU UN AUTRE REPRÉSENTANT DE LA DIRECTION**

Name of Management Representative / Nom du représentant de la direction	Title of Management Representative / Titre du représentant de la direction
Signature of Management Representative / Signature du représentant de la direction _____ Date received at Level 1 / Date de réception au premier palier _____	

Once completed and signed by all parties copies to be distributed as follows: one copy to Grievor, one copy to Bargaining Agent Representative, one copy to the Employer Representative
Une fois que le formulaire est rempli et signé par toutes les parties, en remettre une copie à la partie plaignante, au représentant de l'agent négociateur et au représentant de l'employeur.

Grievance Transmittal Form Formulaire de transmission des griefs

EMPLOYER'S GRIEVANCE NO. / N° DE GRIEF DE L'EMPLOYEUR : _____

SECTION 1

Level 2 / Palier 2	Level 3 / Palier 3	Other Levels / Autres paliers
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**SECTION 2 TO BE COMPLETED BY EMPLOYEE
À REMPLIR PAR L'EMPLOYÉ (E)**

Surname / Nom de famille	Given names / Prénoms	Telephone No. / N° de téléphone
Employer, Department or agency / Employeur, ministère ou organisme		Branch/Division/Section / Direction/Division/Section
Work location / Lieu de travail		
Employee signature / Signature de l'employé(e) _____		Date _____

**SECTION 3 TO BE COMPLETED BY BARGAINING AGENT REPRESENTATIVE
À REMPLIR PAR LE REPRÉSENTANT DE L'AGENT NÉGOCIATEUR**

Approval for presentation of grievance and agreement to represent employee are hereby given
Par la présente, j'autorise la présentation du grief et j'accepte de représenter l'employé(e)

Signature of bargaining agent representative / Signature du représentant de l'agent négociateur _____ Date _____

Bargaining agent / Agent négociateur	Bargaining unit/component / Unité de négociation/Élément
Name of local bargaining agent representative / Nom du représentant local de l'agent négociateur	Telephone No. / N° de téléphone _____ Facsimile No. / N° de télécopieur _____
Address for contact / Adresse aux fins de communication	
E-mail address / Adresse électronique	

**SECTION 4 TO BE COMPLETED BY IMMEDIATE SUPERVISOR OR LOCAL OFFICER IN CHARGE
À REMPLIR PAR LE SUPERVISEUR IMMÉDIAT OU LE RESPONSABLE LOCAL**

Name and title of management representative / Nom et titre du représentant de la direction	Date transmittal received / Date de réception de la transmission
Signature _____	

Once completed and signed by all parties copies to be distributed as follows: copy to Employee, copy to Bargaining Agent, copy to the Employer/copie au employeur

Une fois que le formulaire est rempli et signé par toutes les parties, en remettre une copie à la partie plaignante, au représentant de l'agent négociateur et au représentant de l'employeur.

Your CONTACTS (Fill this in)

Local President

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Regional Representative

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Component President

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Family Counselling

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Legal Aid

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Credit/Financial Planning

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Police

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Fire

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Other

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Other

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Other

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

Other

Name of contact:

Name of practice:

Phone number:

Email / website:

Address:

NOTES



Photo: PSAC

Visit psacunion.ca/shop-stewards
to find more resources
for union stewards.



psacunion.ca