

Effective Grievance Processes

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Territorial Acknowledgement

We respectfully acknowledge the Penticton Indian Band and the traditional, ancestral, and unceded territory of the Syilx Okanagan Nation on whose lands we are visiting and learning.

BCPSEA's work spans across the Province of BC, which is the traditional territories of thousands of First Nations peoples, and currently also home to many Inuit and Métis peoples. We are committed to Reconciliation and to strong Indigenous partnerships and relationships.

Agenda

Grievances by
Definition and Example

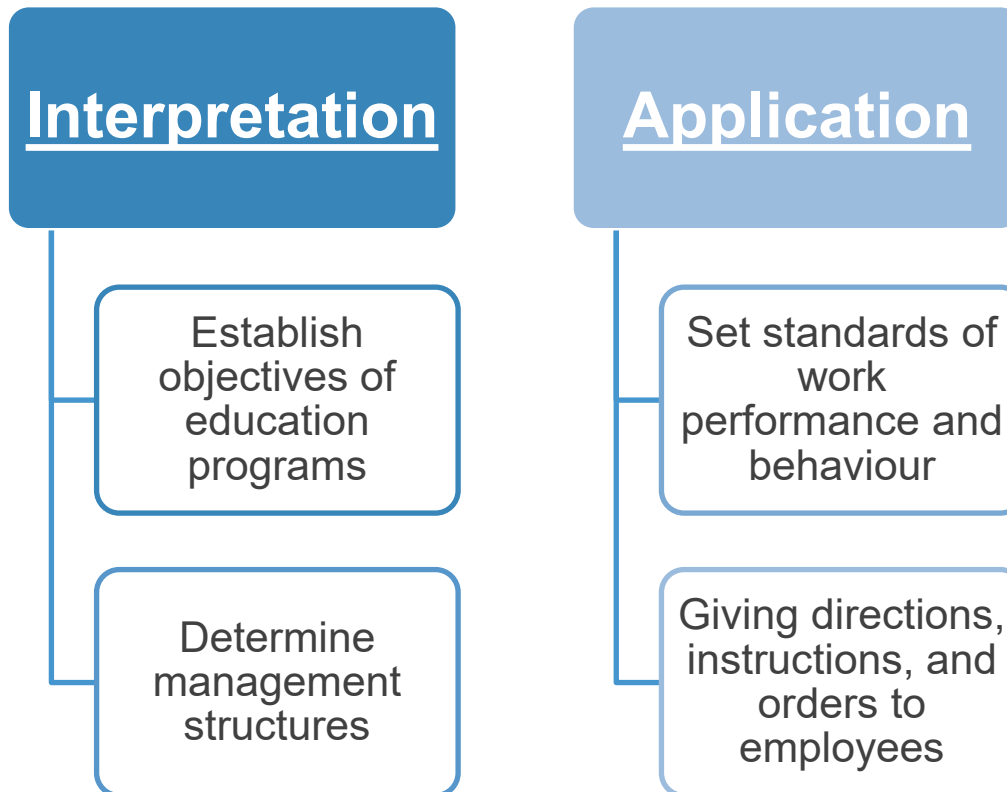
The Grievance
Procedure

Grievance Strategies

Grievances By Definition and Example

What is a Grievance?

A grievance is a formal complaint raised by an individual employee or group of employees alleging a violation of the collective agreement by the employer due to improper administration/application or interpretation of the collective agreement.



Types of Grievances

Individual grievances:

- Protecting a specific employee right
- E.g., failure to call for overtime, denial of vacation request, missed shift premiums for evenings worked

Group grievances:

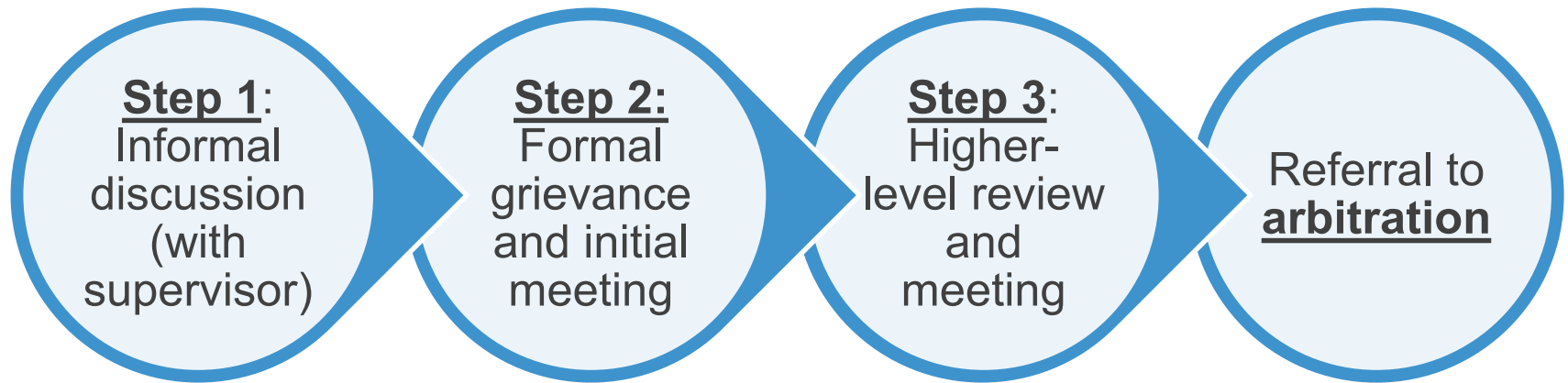
- Protecting a specific Union right
- E.g., contracting out, failure to grant Union leave, implementation of a policy without consultation or agreement

Union or policy grievances:

- Protecting the employee's or Union's interpretation of the collective agreement
- E.g., incorrect application of statutory holiday pay

The Grievance Procedure

The Grievance Procedure: Steps



Step 1: Informal Discussion

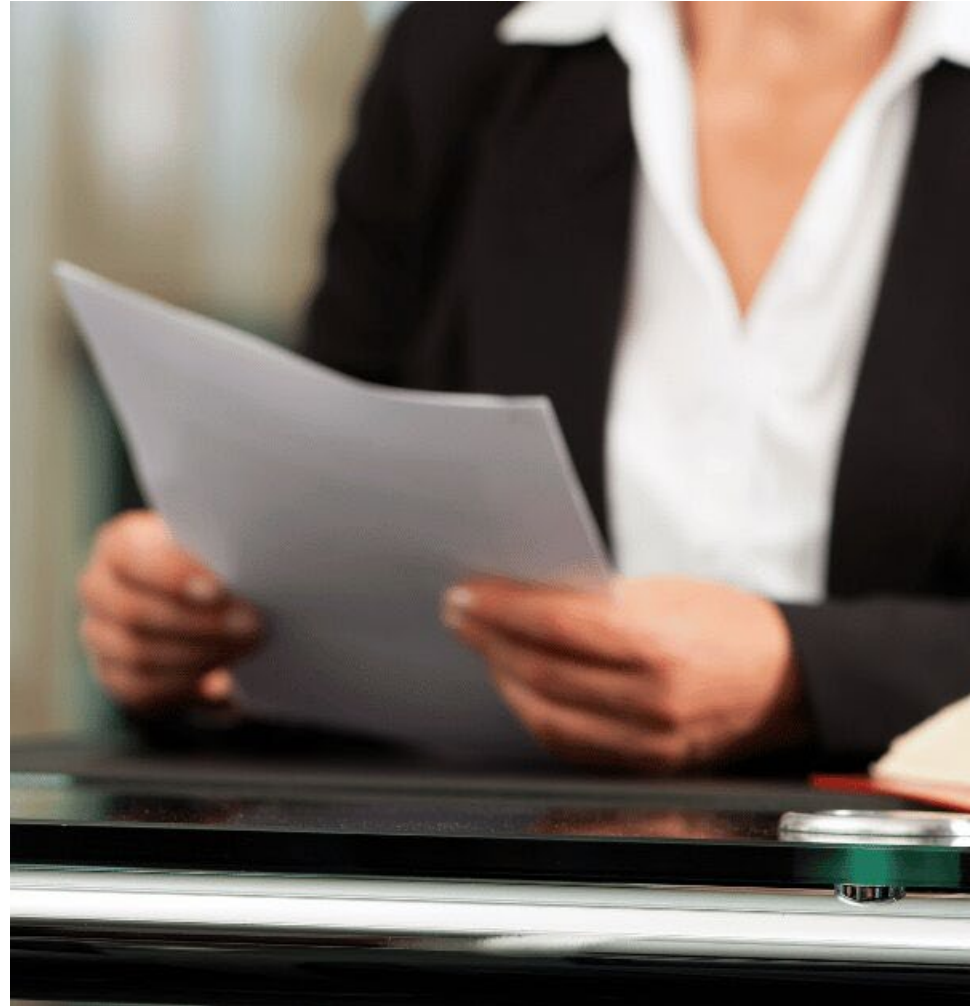
- Meeting between the employee and their manager/supervisor or Principal
- The employee has the option of having their steward/school staff representative present, however this is not mandatory
- Best practices include:
 - Confirming the concern to determine if it represents a breach of the collective agreement
 - Actively listening and asking clarifying questions to get a handle on the issue(s)
 - Verifying the facts, including timeliness of the grievance
 - Understanding the relation to the collective agreement and the employee or union's view as to how the facts relate and demonstrate a breach of the collective agreement
 - Clarify the remedy sought to correct the situation
 - Preparing a report that concisely summarizes the information shared by the employee or union

Step 2: Formal Grievance

- The union submits the grievance in writing and a formal meeting is held
- Best practices include:
 - Carefully reviewing the written grievance to ensure accuracy or understand if there's more or new information provided as compared to Step 1
 - Ensuring a fulsome understanding of the facts, collective agreement issues, and remedies
 - Listening and letting the union make their case as to what the grievance is about, why it was filed, and what outcome is desired
 - Avoiding a strong position

Step 3: Higher-Level Review

- The final opportunity to meet and seek common ground to resolve the grievance
- Best practices include:
 - Same preparation and listening strategies as in Steps 1 and 2
- The Step 3 written response should reiterate the Step 2 response if the position is being maintained (alternatively, if there's an appetite to try and resolve the grievance, then a separate letter with proposed terms should be drafted and shared with the union)



Referral to Arbitration



- An arbitration is “*an adversarial process in which the parties present the evidence to an arbitrator who makes a decision to uphold or dismiss the grievance and in the case of a grievance being upheld, a remedy or order on the basis of the evidence*”.
- Preparing for arbitration involves:
 - Initial intake
 - Gathering facts
 - Legal research
 - Particulars
 - Document disclosure
 - Witness preparation
 - Hearing

Grievance Strategies

Grievance Strategies: Pre-emptive

- Where appropriate, be on the lookout for early informal resolutions
- Distinguish between “prieivances” and “grievances”
- Give space for employees to raise issues informally first before filing a grievance
- Consider the strength of the employer’s position and whether there’s a need to push back or not



Grievance Strategies: Documentation

- Documentation of the grievance file from the beginning:
 - Improves consistency in decision-making
 - Supports transparency and accountability
 - Strengthens labour-management relationships
 - Supports better settlement decisions
 - Expedites resolution



Grievance Strategies: Consistency



- Ensure consistent adherence to the grievance procedure timelines when providing responses or scheduling meetings
- Keep communication open and provide updates on the grievance with the union.
- Understand if the issue has arisen before – both with the employer or elsewhere in the sector (and when, by whom, what was the resolve or decision if it went to arbitration, etc.)

Grievance Strategies: Meetings



- Set the tone
 - Welcome the grievor and union representative
 - Ask the union to set out the issues and alleged collective agreement violations
- Listen to understand
 - Stay neutral
 - Don't rush
 - Ask clarifying questions, paraphrase, and summarize
- Share and conclude
 - Share the employer's view, if appropriate
 - Use the time and space to problem solve
 - Communicate reflection and response to follow

Grievance Strategies: Consideration of Costs

- Legal fees
- Settlement costs
- Back pay and benefits
- Award of general damages
- Statutory fines and penalties
- Administrative and time costs
- Reduced employee morale
- Damage to the employer's reputation



Grievance Strategies: Settlement

- Try and resolve disputes at the lowest level possible
- Consider resolving “prieivances” or grievances on a without prejudice basis (and/or without precedent where applicable) – this is an option available at all times throughout the grievance procedure, including arbitration
- Don’t view settlements as conceding to the union’s position, rather see them as compromises or creative solutions to a problem



Grievance Strategies: Respect for the Process



- Being respectful of the process and not treating it as a formality helps to:
 - Build trust
 - Reduce escalation
 - Maintain relationships
 - Improves quality of information
 - Leads to sustainable solutions

Questions?