



Treasury Board of Canada Secretariat

Classification grievance procedure

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Foreword

This Procedure, which is approved as TB Minute 821755, dated 23 June 1994, outlines the process and procedures for the submission and resolution of classification grievances.

The Classification Grievance Procedure is issued as a supplement to Treasury Board Manual, Personnel Management, Classification, Chapter 4, "Classification Grievances." This procedure has been developed for the resolution of classification grievances and must be respected. Approval for any deviation from the Procedure must be obtained from the Treasury Board Secretariat, Grievance Section.

If you have any comments concerning errors, omissions or improvements, please forward them to the Classification Grievance Section, 3rd Floor, West Tower, L'Esplanade Laurier, 300 Laurier Avenue West, Ottawa, Ontario, K1A 0R5.

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I. General information

A. Who can grieve

1. The Public Service Staff Relations Act gives employees the right to present a grievance. For purposes of the classification grievance process, "employee" means any person employed in one of the departments and other portions of the Public Service specified in Part I, Schedule I of the Act, including persons who are employed in a managerial or confidential capacity.

2. Persons employed on a casual or term basis for a period of less than three months or those who are required to work less than one-third of the normal period for employees doing similar work do not have the right to present a classification grievance.

B. Definition of a classification grievance

1. A classification grievance is a written complaint by an employee against the classification of the description of work he or she performs and which is assigned by the employing department or agency. For purposes of this grievance process, "Classification" does not include the work description or the effective date of the classification decision. These matters are resolved through the Staff Relations Grievance Process provided in the collective agreements.

C. Circumstances justifying the presentation and time limits for presenting a grievance

1. A classification grievance must be submitted at the final level of the grievance process, where the grievance relates to classification. An employee shall present a grievance no later than on the 25th day after the day on which the employee is notified orally or in writing or, where the employee is not so notified, after the day on which he or she first becomes aware of an action or circumstance affecting the classification of the position he or she occupies. An employee has the right to be informed of all actions or circumstances affecting the classification of his or her position.

2. In order to avoid any misunderstanding with regard to the acceptability of a grievance, management must ensure that employees are formally advised of classification actions taken against the position they occupy. The new Classification Action and Position Record (TB330?167) may be used for this purpose.

3. Although not part of the grievance process, an "informal review" allows the department to re-examine the situation and, if it agrees with the employee, to remedy the matter at that point. Once advised of the results of this informal review, an employee who disagrees with those results still has 25 working days in which to present a grievance. A classification grievance is the employee's grievance against a decision for which the deputy head is responsible. Consequently, management shall not further advocate against the decision giving rise to the grievance.

D. Resolving a grievance

1. A classification grievance is presented directly at the final level of the departmental grievance process, or to the Treasury Board Secretariat (TBS) in a situation where the department does not have classification authority. Each grievance is examined and a recommendation is made on the position's classification to the deputy head or nominee or to the TBS nominee. The decision resulting from the classification grievance process is final and binding.

II. The employee's responsibility

A. Presenting a grievance

1. An employee presenting a classification grievance should normally use the standard form available for this purpose. Details of the grievance should clearly state the substance of the grievance, the corrective action requested and the grievor's choice of representative, if applicable. The grievance should be presented to the employee's immediate supervisor or local officer-in-charge.

2. A classification grievance will not be considered invalid if it is presented on a form other than the standard form recommended by the employer.

B. Choice of representation

1. The employee, his or her representative, or both, have the right to be heard; that is, the right to state their views on the classification of the position being grieved.

2. The grievor may choose among the following options:

a. to be represented by his or her bargaining agent, or by any other person of his or her choice who is not a representative of another bargaining agent, provided there is no conflict of interest;

b. to submit his or her own presentation either in writing or in person; or

c. if excluded from collective bargaining, to be represented by any person of his or her choice, provided there is no conflict of interest.

3. The department must inform the employee and his or her representative, notwithstanding the nature of the classification grievance, that all aspects related to classification will be reviewed by the grievance committee and that the decision rendered by the deputy head or nominee may result in an upgrading, downgrading or confirmation.

C. Place where a grievance is heard

1. Classification grievance committee meetings will normally be held at the departmental headquarters. The employer will not assume any liability for expenses incurred by a grievor unless specifically provided for in a collective agreement. An employee who wishes to be present at the grievance hearing is responsible for his or her expenses and must make arrangements for leave from his or her place of work.

D. Withdrawal of a grievance by the employee

1. Only the employee may withdraw a grievance. No person, including the employee's representative or manager, may do so on behalf of the employee. An employee may withdraw a grievance at any time before the grievance decision is issued by the employer, by giving written notice to the immediate supervisor or the local officer-in-charge.

III. Management's responsibility

A. Acknowledging the grievance

1. The responsible supervisor or manager must immediately acknowledge receipt of a grievance by signing and dating the grievance form submitted in order that the time limits for responding to the grievance can be established.
2. The time limit from which the employer must respond to a classification grievance is calculated from the date on which the immediate supervisor or the local officer-in-charge receives the grievance.

B. Routing of documentation

1. The immediate supervisor or the local officer-in-charge must return a copy of the grievance form to the grievor, and transmit the grievance directly to the responsible personnel officer who will submit the grievance to the officer authorized to render a decision.
2. The authorized manager of the grieved position is also accountable for ensuring that the following documentation is forwarded to the responsible personnel officer:
 - a. the description of work signed by the authorized manager, identifying the date the work was assigned to the employee; and
 - b. for non Universal Classification Standard (UCS) grievances, an organization chart in effect, signed and dated by the responsible manager illustrating positions above, below and lateral to the position being grieved and their classifications.

C. If a grievance is withdrawn

1. If the grievor withdraws the grievance before the grievance decision is rendered by the employer, the supervisor or local officer-in-charge must date and sign the employee's notice of withdrawal and forward it directly to the deputy head or nominee who will immediately inform the responsible TBS representative.

IV. Preliminary action

A. Initial examination of a classification grievance

1. All grievances must be examined for validity. The deputy head or nominee will determine whether it should be accepted or rejected.
2. A classification grievance must be accepted as long as the grievor was occupying the subject position at the time the classification decision was rendered, and, provided the grievance has been submitted within the time limits.
3. No distinction is to be made between an employee occupying a position on an acting or substantive basis. However, the work description forming the basis of the decision being grieved must be the work assigned to the position occupied by the employee who is presenting the grievance.
4. A classification grievance will be considered valid even if the work description is not signed by the employee, provided the employee is not contesting the job content.
5. A classification grievance cannot be considered valid when the job content is being contested. The department will inform the employee and his or her representative that a new classification grievance will have to be submitted once the job content is resolved. The department must review the new work description and issue a new classification decision, whether or not changes were made to the work description, thus providing the employee with the right to submit a new grievance.
6. In cases where the grievor contests both the classification and the effective date, the grievance committee will proceed with the hearing of the grievance and will adopt the effective date assigned by management and indicated on the work description. The grievor will have the option of pursuing the staff relations portion of his or her grievance. The effective date issue may be resolved at any time during the grievance process.

B. Timeframe for responding to a grievance

1. The PSSRB regulations stipulate that a written response must be provided to the employee no later than 60 working days after the date the grievance is presented. To avoid unnecessary delays, replies should be sent by registered mail.
2. If the 60-day limit cannot be met, the department must seek written agreement to extend the time limits from either the representative or the employee (if the employee is not represented). TBS will not accept unlimited time extensions for replying to a grievance.
3. If agreement to extend the time limits cannot be reached, application must be made to the PSSRB.

V. Classification grievance committee

A. Mandate

1. The Classification Grievance Committee is responsible for establishing the appropriate classification and evaluating the grieved position based on the duties assigned by management and performed by the employee and the additional information provided by management and by the grievor and/or his or her representative. It must review and analyze all information presented in a gender neutral way. The classification

recommended to the deputy head or nominee must be fair, equitable and consistent with the classification principles.

B. Scheduling

1. Upon receipt of a grievance, the department will immediately contact TBS in order to establish a hearing date. The date chosen should take into account the time limit established for responding to the grievance and should allow adequate time to prepare, sign and approve the committee's report. Once the date has been established, the department will formally inform the employee and his or her representative (at least 15 working days in advance of the date established by the department and TBS). The date chosen may only be changed under exceptional circumstances and with the approval of the TBS.

2. As both the employee and his or her representative will have been informed at least 15 working days in advance, the classification committee will proceed on the scheduled date even if the employee's representative withdraws support.

C. Composition of the classification grievance committee

1. Formal Classification Grievance committees comprise three persons. Whenever possible, the committee should comprise representatives of both genders:

- a. a chairperson - an accredited classification officer;
- b. a TBS grievance officer; and
- c. one person from within or outside the department, preferably a line manager with experience in applying the standard(s) being used and knowledgeable of the type of work being grieved.

2. The committee members must meet the following criteria:

- a. they did not participate in the classification decision of the position being grieved;
- b. they are neither supervising the position in question nor in a position of potential conflict of interest; and
- c. they are knowledgeable about classification techniques and experienced in the use of the relevant classification standard(s).

3. The authority for classification grievances will remain with TBS in instances where classification delegation is restricted to the deputy head.

4. The presence of a TBS representative is not required in the following instances:

- a. where a grievance submission is identical to a grievance decision previously rendered against a departmentally recognized generic position; and
- b. when an employee submits a classification grievance against the position he or she occupies, and a grievance decision had previously been rendered against the same position, and the new work description submitted is identical to the one submitted for the previous grievance decision.

5. In cases noted under 4.a., the following conditions will apply:

- a. the Union must have made a presentation in support of the national or generic position from which subsequent decisions will be based. This condition does not apply in situations

where the Union had not supported the first grievance(s) and still does not support the subsequent grievance(s);

b. all duties must be identical; and

c. the TBS must have in its possession the list and the descriptions of the departmentally recognized generic positions.

6. When an employee submits a classification grievance against the position he or she occupies, and a grievance decision had previously been rendered against the same position but the work description is not identical to the one submitted for the previous grievance decision, the case will be presented before a new formal classification grievance committee, that is, with the presence of a TBS representative.

a. If the committee judges that no significant change has occurred since the previous grievance decision, a recommendation to support this will be made to the deputy head or nominee, who will render a new final and binding decision with the effective date of the previous grievance decision.

b. If the committee judges that one or more significant changes have occurred since the previous grievance decision, the committee will review the case and make a recommendation to the deputy head or nominee who will render a new, final and binding decision with the effective date of the new duties.

7. Although the presence of a TBS representative is not required in cases noted under 4.a. and b., a committee must be convened and the grievance procedure must be adhered to. TBS must be informed of such cases. Documentation listed under D.1., including the complete report and letter to the grievor informing him or her of the grievance decision, must be submitted to the TBS.

8. In all cases, the grievor and/or his or her representative must be invited to make a presentation. The departmental committee must present its report to the deputy head or nominee who will render a final and binding decision.

Documentation required

1. The committee members must have as much information as possible to allow them to evaluate the position. The following documentation should be sent to each member at least 15 days prior to the date the committee will convene:

a. a grievance presentation form or other notice to grieve;

b. a TB 330-167 or other notice of a classification decision for the position grieved;

c. the rationale for the classification decision of the position being grieved;

d. a description of work forming the basis of the decision being grieved, signed by the authorized supervisor and bearing the effective date of the work assigned to the employee;

e. the organization chart in effect, signed and dated by the responsible manager illustrating the positions above, below and lateral to the position being grieved and their classifications;

f. an on-site review report, if available;

g. the supervisor's work description;

h. work descriptions for any immediately subordinate position(s);

i. any other pertinent information which may help to resolve the grievance (e.g. a departmental study, precedents, etc.); and

j. written presentation(s) if sent prior to the hearing.

2. The documents stated in sub-paragraphs l.c. and e. are not required for positions evaluated with the UCS.

3. Upon request, the department should provide the information listed above to the grievor's representative.

On-site review

1. Since classification grievances are heard at the final level of the grievance process and the decision rendered is final and binding, it is critical that the decision be based on an accurate work description performed by the employee and assigned by management. To facilitate the committee's work, it is therefore encouraged, wherever possible and practical, that an on-site review of the work with the employee concerned and the supervisor be conducted. Upon request, a copy of the on-site report should be provided to the grievor and/or his or her representative.

Committee procedure

1. The classification grievance process is not intended to be an adversarial system; it provides for a meeting to be convened during which information will be presented and sought, allowing committee members to make a recommendation to the deputy head or nominee.

2. The chairperson is responsible for ensuring that committee members and, in particular, the grievor are reminded of the committee's role and of the grievance procedure. It is very important that the grievor and his or her representative are made aware that all aspects of the classification of the grieved position will be reviewed by the committee. The decision rendered will be final and binding and could result in the upgrading, confirmation or downgrading of the grievor's position. The chairperson should explain the respective roles of the committee members and outline the procedure the committee will follow, as indicated below:

a. presentation of arguments by or on behalf of the grievor;

b. information provided by management;

c. committee deliberations;

d. committee report; and

e. final and binding decision by the deputy head or nominee.

3. The chairperson must clearly understand the substance and all the details of the grievance including details of the position being grieved to provide precise and first hand explanations and information to the committee members with respect to departmental relativities. The chairperson is responsible for controlling the conduct of the meeting.

G. Presentation by the grievor and/or his or her representative

1. The grievor, his or her representative, or both, shall be given the opportunity to make a presentation (in person or in writing) to the grievance committee before a recommendation is made with respect to classifying the grieved position. Once that presentation is completed, they must withdraw from the meeting.

H. Management information

1. A management representative familiar with the work of the grieved position should be available to respond to questions the committee members may have with respect to the position. The management representative is not permitted to argue for or against the decision which led to the grievance, attempt to influence the committee members, participate in the committee deliberations or be present when the grievor, his or her representative or both, make a presentation to the committee.

I. Additional information

1. If deemed necessary, the committee may call upon other persons to provide additional information and/or conduct an on-site visit.

J. Committee deliberations

1. The committee deliberations occur "in camera." The members will examine all information presented; taking into account the information provided, they will discuss and evaluate the position in question against the appropriate classification standard(s), review all aspects of the classification decision being grieved and attempt to reach a consensus when evaluating the position. If a consensus is not reached, minority and majority reports will be prepared. The possible financial implications of the reclassification of one or more grieved positions may not be considered by the committee during its deliberations.

2. The committee may recommend that the current classification decision be confirmed, that there be a change in the evaluation, or that the position be reclassified to a higher or lower level within the same or different occupational group. The effective date for the recommendation shall be the date, certified by management, on which the work was assigned to the position, except in cases where a downgrading is recommended. In such cases, the Salary Protection policy will apply.

3. The proceedings in general, and the committee's recommendation in particular, may not be discussed with outside parties.

K. Grievance committee report

1. The chairperson is responsible for preparing a report on the committee's proceedings, including a justification for the committee's recommendation. Guidelines for preparing classification grievance committee reports are detailed in Annex 1. A classification grievance report is not complete and must not be submitted to the deputy head or nominee for approval until it has been signed by all members. Minority reports must also be submitted to the deputy head or nominee.

VI. Action by deputy head or nominee

A. Approval of the committee's recommendation

1. The deputy head or nominee will either confirm the committee's recommendation or make a decision in cases of minority and majority reports. In cases of minority or majority reports, if the minority report is accepted the nominee must so advise the deputy head. If the unanimous recommendation of the grievance committee is rejected by the nominee, the new decision must be personally approved by the deputy head. In such circumstances, the deputy head must report to TBS the reasons for non-acceptance, tied directly to the justification used by the grievance committee in arriving at its recommendation.

B. Status of a grievance decision

1. Under the PSSRA, the decision resulting from the classification grievance is final and binding.

2. "Final and binding" means that, unless a significant change occurs which is likely to affect the evaluation or the nature of the position, the grievance decision cannot be altered.

3. A final and binding decision does not preclude an employee from submitting a new grievance following notification of review of his or her position when "no significant change" was recognized. In such cases, the grievance must be accepted and treated in accordance with the applicable process.

4. Each case should be dealt with on its own merits.

C. Reply to the grievor and/or his or her representative

1. The grievor must be advised in writing of the grievance decision rendered by the deputy head or nominee. The response to the grievor must be signed by the deputy head or nominee and must state the classification and the effective date of the decision. It must also state that the decision is final and binding.

2. A copy of the grievance committee report, including a copy of the presentation made on their behalf, when available, must be provided to the grievor along with the response to the grievance. No response may be sent to the grievor until the grievance committee report has been signed by all members and by the deputy head or nominee.

3. If representation was provided, a copy of the grievance report must also be forwarded to the grievor's authorized representative.

4. If however, the grievance results in a downgrading, the employee must be informed that he or she has the right to submit additional information, provided this is done within 25 working days after the day on which he or she receives the final and binding decision.

VII. Treasury board secretariat

A. Information requirements

1. For grievances concerning positions for which the department has classification authority, the documentation described in Section V, paragraph D.1, must be forwarded to the TBS.

2. The following information must also be provided to the TBS:

- a. the date on which the employee was notified or became aware of the action giving rise to the grievance;
 - b. whether the employee is excluded or is a member of a particular bargaining unit, including his or her Personal Record Identifier (PRI) number; and
 - c. the names and titles of the committee members.
3. In order to avoid unnecessary classification grievance hearings, departments must indicate the job number assigned and the position numbers of the decision being grieved when a classification decision covers more than one position. In such cases, departments are to provide the TBS with a list of the grievances covering the "jobbing/generic" decision, but need only submit one copy of the applicable work description.
 4. For grievances concerning positions for which the department does not have classification authority, the required documentation must be sent to the TBS in triplicate.
 5. The TBS must be advised of all grievances received in departments. The TBS must also be advised of all grievances that have been rejected or withdrawn.
 6. Once the deputy head or nominee has signed the grievance committee report, departments are required to provide the TBS with a copy of the said report and the letter notifying the grievor of the results of the grievance.

Annex 1

Classification grievance committee report

Identifying information

1. This section should provide the grievor's name, position number, position title, department, present classification and geographical location.

Committee members

2. This section lists the names and departments of the committee's chairperson and members.

Date and place of committee

3. Self-explanatory.

Nature of complaint

4. This section should include a summary of the action or decision giving rise to the grievance and the specific remedy requested by the grievor.

Representation by or on behalf of the grievor

5. This section should provide the name of the grievor, including his or her representative or the bargaining agent, if applicable. It should summarize the salient points made in support of the grievance, including the rationale for the recommended classification, and should mention and briefly explain any material submitted.

Management information

6. This section should provide the name, title and hierarchical relationship of the manager with the grievor. It should summarize the salient points made in support of the grieved position and note responses to the questions posed by the committee. Any documentation submitted should also be noted and its content briefly summarized.

Committee deliberations

7. This section is the heart of the report and must clearly indicate how the committee arrived at its recommendation. It should analyze the grievor's work in relation to the classification standard(s), the arguments made by or on behalf of the grievor and management's information, and provide a detailed explanation for the committee's evaluation. It should state why the committee evaluated the position in the specific category and occupational group and level, what, if any, other categories or groups were considered and the reasons why these were considered inappropriate. If the existing category, group, level and rating are being confirmed, a complete rationale must, nevertheless, be developed. Statements such as "No change to present rating" are not acceptable.

Committee recommendation

8. This section states the committee's recommendation regarding the occupational category, group and level of the position. It should also indicate the effective date for implementation.

Signatures

9. All committee members including the deputy head or nominee must sign and date the report.

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