



OSSTF District 12 TTBU Grievance Process

The grievance process is the formal set of procedures by which the union protects its collective agreement. Grievances are generally about testing how clausal language from a collective agreement has been interpreted and applied. All bargaining units have the statutory right, under the Labour Relations Act, to grieve an alleged breach of their collective agreement.

The District 12 grievance and arbitration procedure is found in section 1.4.0.0.0. of the current collective agreement. It provides for an informal resolution phase, two formal steps at which the parties may work out a mutually agreeable solution to a problem, and for arbitration which is the submission of a grievance which the parties cannot solve themselves to a neutral third party.

The parties to a grievance are the parties to the collective agreement, i.e., the bargaining unit and the board. The individual member is not a party to the collective agreement and therefore the grievance process may only proceed with the consent of the bargaining unit and under the direction of a bargaining unit grievance officer (Executive Officer, Vice President or President).

The collective agreement sets time-lines for filing a grievance at each step of the process. Time-lines may be extended by mutual consent. Without formal extension of time-lines, failure to act within the specified time can cause loss of a grievance.

There are three different types of grievances: individual, group and policy. An individual grievance is filed on behalf of one member who has been directly affected by the misapplication of a clause in the collective agreement. A group grievance is filed when more than one member has been directly affected by the misapplication of a clause in the collective agreement. A policy grievance is filed when an action taken by the board is in contravention of our collective agreement and wide-reaching enough that it may be interpreted as board policy, or when an official board policy is breached by the employer to the detriment of the membership.

Communication with Members

The first step in assisting a teacher is to listen to the problem. Find a place that is private and have the teacher describe the situation. Keep detailed notes. Get the details by asking any questions necessary, and determine what assistance the member is requesting. NOTE: The exception to this rule is when a teacher is under police investigation, investigation by the Children's Aid Society, has been sent home pending outcome of a Board investigation, or if a complaint has been made to the College of Teachers. In each of these cases contact your Executive Officer immediately, and do not ask the teacher any questions.

Representing a Member in a Meeting with Management

You may be called, sometimes on very short notice, by a teacher or even the principal to sit in on a meeting with a teacher as their Union representative.

In any situation involving a meeting with an administrator, we advise that you contact your Executive Officer. The Executive Officer can assist you in determining whether the situation is a potential grievance, a member to member dispute, or some other situation. A dispute is potentially a grievance only if a clause of the collective agreement has been violated, affecting either an individual or a group of teachers. If there is nothing in the collective agreement that has been violated, and the teacher has not been disciplined, then a grievance is probably not possible.

If you are not able to get advice ahead of time, explain to the administrator that you are awaiting assistance from the District Office and that you and the member can not attend the meeting until such time as that assistance is provided.

Stay in Touch with Your Executive Officer

Each school is assigned an Executive Officer liaison. Please work with that Executive Officer throughout the year. Executive Officers are assigned to the area that one of the Vice-Presidents is responsible for, and work with that VP in dealing with grievances and issues that may arise. Leslie Wolfe has responsibility for the South East and North East region schools; Earl Burt has the South West and North West schools.

Member to Member Disputes

If the situation is a member to member dispute, the Branch President or Executive Officer should inform the teachers of their professional rights and duties, but the resolution of the dispute will be turned over to our secretariat liaisons to resolve, if possible. If you are uncertain whether you should be involved in a teacher problem, call your Executive Officer.

Health and safety issues should be referred to the Health and Safety Officer for assistance.

Letters of Discipline

The most common grievances involve the discipline of a teacher. In accordance with our collective agreement, the only file of record is the teacher's personnel file. Therefore, letters that constitute discipline of teachers are only those which are copied to a teacher's personnel file.

If a letter is written to a teacher by a principal and is retained in the school file, our collective agreement is clear that this document is not official and cannot be used by the Board for legal purposes to discipline a teacher. Therefore, such a letter is not grievable by the Bargaining Unit. Teachers may certainly challenge the information written in such a letter, and Branch Presidents may be asked to assist a teacher in speaking with the principal. Branch Presidents should call their Executive Officer for advice on such letters.

Any letter copied to the personnel file is considered to be disciplinary and may be grieved if the discipline imposed is considered unreasonable and/or unwarranted.

Breaches of the Collective Agreement

If something occurs in your school which you believe is contrary to the collective agreement, please contact your Executive Officer for assistance. This could be the questionable utilization of time-to-time supervision and/or coverage, organization of the timetable, or a problem related to school staffing/surplus, among other issues. Your Executive Officer will take the information from you and bring it forward to a Vice President for discussion and a decision as to whether to take the case forward to grievance after an attempt at informal mechanisms for resolution.

Policy Grievances

A policy grievance against the Board is initiated by the Bargaining Unit when Board action is far-reaching enough that it may be considered to be policy, or when official board policy is considered to have been misapplied. Policy grievances have different time-lines than individual/group grievances (90 days) and are filed directly at Step 2. The Branch President is very important in drawing this sort of violation of the Collective Agreement to the attention of the Executive.

The Grievance Process:

Executive Officers discuss cases with their VP before trying to resolve a problem, and again at the in-house grievance meetings before initiating a grievance. All Executive Officers and the two Vice Presidents attend these meetings during which decisions are made about whether or not a grievance should go forward. If it is determined that there is a grievance, the following process is implemented in accordance with the collective agreement:

Step One

The Executive Officer, in consultation with the Vice President, will write the Step 1 letter, identifying the individual(s) involved, their school, the clause(s) that has been violated, and the remedy requested. The Executive Officer presents the grievance at the next Step 1 grievance meeting (these are held at regular intervals with the Board), and will work with the Board Grievance Officer to reach a resolution, if this is possible. Step 1 Grievances are heard by the Centrally Assigned Principal of Secondary Staffing, Andrew Gold. The Executive Officer will keep in touch with the grievor and discuss/make recommendations on any Board-proposed offer of settlement. At this point, the Branch President may or may not continue to be involved.

Step Two

If no settlement is reached at Step One, the Bargaining Unit decides whether to carry the grievance forward to Step Two. The Executive Officer will discuss the situation with the grievor and/or the Branch President. Usually we proceed to Step Two if no resolution is obtained at Step One. Step Two grievances are heard by Steven Talsky, Chief Negotiator of Teacher Bargaining for the TDSB. If a settlement is proposed by the Board, the Executive Officer will discuss it with the grievor.

At both Steps One and Two, the Bargaining Unit may choose to accept a settlement which is in the best interest of the membership, even if the teacher does not wish to settle.

Arbitration

Before making a decision to proceed to arbitration, the Bargaining Unit Vice Presidents may consult with legal counsel to get an opinion as to the prospects for the case in arbitration. The Bargaining Unit Executive will make a decision as to whether or not to recommend to provincial office that the grievance be taken to arbitration. If the decision is to proceed, the grievance file is submitted to the provincial office, and must be approved by them for arbitration before the process continues.

If the Executive decides not to forward the case to provincial office with a recommendation for arbitration, the grievor may appeal to the TTBU Appeal Committee (a constitutionally appointed sub-committee of the Collective Bargaining Committee), and the decision of that Committee is binding on the Bargaining Unit. If the decision of the Appeal Committee upholds the Executive's decision not to proceed, then the Bargaining Unit will withdraw the grievance. If the Appeal Committee reverses the Executive's decision not to proceed, the grievance must still be submitted to the provincial office for approval.

Once a grievance is recommended for arbitration, it is in the hands of the provincial office, and provincial officials make any further decisions about it. The arbitration process can take from one to several years to complete.