

# GRIEVANCE HANDLING

## REGULATORY BODIES AND LEGISLATION

<b>Employment Standards Act (ESA)</b>	<p>Legislation enacted by the provincial government to protect the rights of working people. Sections outline the employers' responsibility to their employees, notably things such as minimum wage, meal breaks, and parental leave. It also works to protect residents of the province by preventing employment discrimination.</p> <ul style="list-style-type: none"> <li>&gt; Minimum standards for non-unionized workplaces</li> <li>&gt; 2002 govt. changes to the ESA = Union members with collective agreements were excluded from the core provisions if their contracts contained language covering those provisions.</li> <li>&gt; Unions starting from zero when bargaining, instead of ESA minimum</li> </ul>
<b>Christian Labour Association of Canada (CLAC)</b>	<p>Established in 1952 to represent workers, usually in the construction, health care and food industries. Claims that their approach develops workers' sense of responsibility, participation, stewardship, and dignity; and opposes what they call the undemocratic, adversarial, and monopolistic practices of the labour movement.</p> <ul style="list-style-type: none"> <li>&gt; "Alternative" union movement based on Christian social principles</li> <li>&gt; Best known union - CLAC</li> <li>&gt; Consider the economic viability of the employers they bargain with and consistently negotiate low wages and benefits.</li> <li>&gt; Often called "rat unions" and are regarded as being "in the pockets" of employers.</li> </ul>
<b>Labour Relations Board (LRB)</b>	<p>An independent, administrative tribunal with the mandate to mediate and adjudicate employment and labour relations matters related to unionized workplaces.</p> <ul style="list-style-type: none"> <li>&gt; Variety of service for unionized workplaces; including mediation between unions and employers.</li> </ul>
<b>Section 12</b>	<p>A union member who feels that his or her union has not met its fair representation responsibilities can make a written complaint under this code. The application will be reviewed and may proceed to a hearing if there appears to be a case against the union. If it is determined the union has not represented the member fairly, there are a variety of remedies available.</p> <ul style="list-style-type: none"> <li>&gt; Section 12 outlines <b>the duty of fair representation</b> to which unions must adhere.</li> <li>&gt; Section 12 = unions cannot act in a manner that is <b>arbitrary, discriminatory, or in bad faith.</b></li> <li>&gt; Before a member can make a complaint under section 12 of the code they have to exhaust the Union's internal appeal process.</li> <li>&gt; Board generally considers "did the union turn its mind to the merits of the grievance in coming to a decision?" If this is demonstrated, the appeal is unlikely to succeed.</li> <li>&gt; Meeting the duty of fair representation is largely common sense. If you find yourself seriously challenged in representing a member contact your steward liaison or regional chair for assistance or get advice from your LRO.</li> </ul>

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### REGULATORY BODIES AND LEGISLATION *continued*

<b>Labour Relations Code (LRC)</b>	<p>A statute that governs all aspects of collective bargaining amongst the provincially-regulated employers and employees. This includes the acquisition of collective bargaining rights, the process of collective bargaining, the settlement and regulation of disputes in both the public and private sectors, and the regulation of the representation of persons by their bargaining agents.</p> <ul style="list-style-type: none"> <li>&gt; Applicable to unionized workplaces only.</li> </ul>
<b>Grievance Assessment Committee (GAC)</b>	<p>Internal body whose purpose is to review the merits of grievances and issues prior to forwarding matters onto third party. Where the decision of the body is to not refer the grievance to third party, a letter is sent to the grievor(s) advising about the process they need to follow if they want to appeal that decision.</p> <ul style="list-style-type: none"> <li>&gt; Internal BCNU process.</li> <li>&gt; Committee decides if unresolved step 3 grievance has sufficient merit to take forward to arbitration at some level.</li> <li>&gt; If yes - is referred.</li> <li>&gt; If no -letter sent to grievor stating why and declaring the grievance resolved; letter outlines the appeal process.</li> <li>&gt; Appeal committee can override the GAC decision or affirm it; can call the grievor, LRO and any witnesses it wishes to give evidence.</li> <li>&gt; If still no - then grievor can appeal via S12.</li> </ul>
<b>Human Rights Code (HRC)</b>	<p>A provincial law that gives all people equal rights and opportunities without discrimination in specific areas such as jobs, housing and services. The goal is to prevent discrimination and harassment because of race, colour, sex, sexual orientation, disability, creed age and other grounds.</p> <ul style="list-style-type: none"> <li>&gt; Strong legal status under human rights legislation.</li> <li>&gt; Board hearing is time-consuming and costly affair; likely several hearings.</li> <li>&gt; BCNU does not support this process, members making HR c/o must do so on their own and obtain their own legal council (BCNU has grievance process).</li> <li>&gt; Member may have to decide which process - jurisprudence does not allow the same issue to be arbitrated in multiple forums.</li> </ul>
<b>Human Rights Tribunal</b>	<p>An independent, quasi-judicial body responsible for accepting, screening, mediating, and adjudicating human rights complaints. Offers the parties to a complaint the opportunity to try to resolve the complaint through mediation.</p> <ul style="list-style-type: none"> <li>&gt; Only accepts cases with merit that have not been tried in other arenas (so would not hear a complaint that had already been through a grievance process).</li> </ul>

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### REGULATORY BODIES AND LEGISLATION *continued*

<b>Workers Compensation Act (WCA)</b>	<p>A provincial law organized in four Parts. A number of provisions in Part 1 and all of Part 3 apply to occupational health and safety and are provided here either verbatim or summarized. Some sections in Part 4 apply to appeals of health and safety decisions.</p> <ul style="list-style-type: none"> <li>➤ 2011 Bill 14 Workers Compensation Amendment Act introduced “bullying and harassment” into legislation.</li> </ul>
<b>Occupational Health and Safety Regulation</b>	<p>Legal requirements adopted under the Workers Compensation Act that must be met by all workplaces under the inspection jurisdiction of WorkSafeBC. Many sections have associated guidelines and policies.</p> <ul style="list-style-type: none"> <li>➤ Strong regulations that must be adhered to.</li> </ul>
<b>WorkSafeBC (WsBC)</b>	<p>A statutory agency created by an act of the provincial legislature in 1917; currently covering more than 200,000 registered employers and 2.3 million workers. Administers claims for work-related injury, illness and disease; the agency is also responsible for prevention. The agency also carries out workplace inspections and investigations of work-related injuries and fatalities.</p> <ul style="list-style-type: none"> <li>➤ Tools and resources available online.</li> </ul> <p>Important to know your rights and what is properly under the jurisdiction of WsBC.</p>