

## **Grievance Handling Policies and Procedures**

Under the *Ontario Labour Relations Act, 1995*, the Professional Engineers Government of Ontario (PEGO) has sole carriage of a grievance and is the sole representative of the members on employment-related matters.

A violation of the contract terms outlined in the Collective Agreement or perception of violation may result in a grievance. The grievance procedure is outlined in Article 16 of the Collective Agreement. Members possess the ability to file grievances. If a grievance cannot be resolved then the next step is arbitration. The Association determines whether a grievance should be referred to arbitration. PEGO is one of the two parties (the other being the Employer) at all grievance meetings and arbitration hearings. PEGO's responsibilities and obligations follow from the "duty of fair representation" as defined by Section 74 of the Ontario Labour Relations Act.

Under the duty of fair representation, PEGO "shall [not] act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees in the [bargaining] unit". The duty of fair representation does not require PEGO to process every grievance to arbitration. The duty of fair representation means every grievance must be thoroughly and seriously investigated and PEGO cannot act arbitrarily or give only superficial attention to a grievance or complaint. In exercising its discretion regarding the advancement of cases to arbitration, PEGO has an obligation to review the matter thoroughly, act in good faith, objectively and honestly, and take into consideration the significance of the grievance and its consequences to the member and balance those with the legitimate larger interests of PEGO.

All members of the bargaining unit are entitled to fair representation through each step of the grievance or arbitration procedure. PEGO must keep records to demonstrate that it has taken appropriate steps to discharge its obligation of fair representation.

### **Grievance Committee**

The Grievance Committee has the responsibility to determine the disposition of all grievances, subject to an appeals procedure. The Constitution & Bylaws, Committee Terms of Reference, relevant Association Policies, the Ontario Labour Relations Act, and other relevant legislations guide the work of this Committee. This committee makes policy decisions pertaining to the grievance procedure. This committee provides advice to members and the Labour Relations Officer on possible resolutions.

- a) The Grievance Committee of the Association is composed of three (3) Executive Members (President and two executive members) and the Labour Relations Officer. The President is the Chief Executive officer of the Association and is responsible for the general supervision of the affairs of the Association.

- b) The President of the Association is the chair of the committee. The Labour Relations Officer may participate in Grievance Committee meetings with voice but no vote.
- c) The Grievance Committee will meet as often as the Chair deems necessary.
- d) Where the Committee is considering whether a potential or actual individual or group grievance should advance to arbitration, the Committee may consult with the delegate or PEGO representative who initially brought the complaint or potential grievance to the Committee.
- e) The Grievance Committee may request the participation of others, such as appropriate Legal Counsel, External Consultant(s), Grievor, etc. but these individuals will have no vote.
- f) Each member of the Committee must hold strict confidence all information pertaining to any complaint or grievance.

## I. Procedures for Grievances & Arbitrations

The following outlines the procedures for cases that require formal action.

### A. Grievances

- i. Formal grievances are the responsibility of Grievance Committee Chair and the Labour Relations Officer.
- ii. All grievances should be signed off by the Labour Relations Officer with the approval of the Chair.
- iii. The Executive Committee or Grievance Committee can initiate policy grievances.

### B. Arbitrations

- i. If a grievance is not resolved, then the Chair of the Grievance Committee and Labour Relations Officer can advance the grievance to arbitration.
- ii. If the recommendation of the Chair and the Labour Relations Officer is positive, the case will advance to arbitration.
- iii. If the recommendation of the Chair and the Labour Relations Officer is negative, then the case will be forwarded to the Grievance Committee for review.
- iv. When making a determination to take a case to arbitration, the Grievance Committee members will receive copies of any relevant documents to be considered including the case summary, legal opinion(s) and official correspondence between the PEGO and the Employer. At the meeting, the professional staff person responsible for the file will present the history of the case and answer any questions. After hearing submissions, the Grievance Committee will deliberate in camera. The Chair will provide written reasons for the decision to the member, as well as the procedures for appeal, should the decision be negative.
- v. Cases proceeding to arbitration normally require a positive recommendation from the Grievance Committee to the Executive Committee. The Executive Committee has ultimate authority on whether a case proceeds to arbitration.

- vi. Each executive member shall hold strict confidence all information pertaining to any complaint or grievance.

## II. Procedures for Appeals of Decisions Not to Proceed to Arbitration

Members have the right to appeal any negative recommendation or decision regarding their grievance. The member must submit his/her appeals to the Executive Committee. Members are urged to bring all relevant information forward at the appeal hearing. During the course of this process, should the member become aware of new and relevant material, he or she has a right to submit that material to the appropriate appeal body while the appeal process is ongoing.

### **Source of negative recommendation/decision**

Grievance Committee

### **Appeal Body**

Executive Committee

The appeal process is similar at each appeal. Members must inform PEGO that they wish to appeal within 7 calendar days of receiving the decision. PEGO will make every effort to schedule a meeting of the Executive Committee to hear the appeal within ten (10) working days from the date of notification by the member that they wish to appeal, and the member will be informed of the date and time. The member will be provided with a copy of the case summary and any official correspondence between PEGO and the Employer, if these have not been previously provided. The member may appear in person to make an oral presentation of approximately 15 minutes and/or may make a written submission of no more than 10 double-spaced pages (roughly 2500 words) no later than 7 days in advance of the meeting.

In advance of the meeting, the Executive Committee will be provided with the information as outlined in B.iv. above as well as the submission by the member, if any. Prior to the member being invited into the meeting, the professional staff person responsible for the file will present the history of the case (if this has not been done at a prior meeting). The member will then be invited in to present their appeal and then be asked to leave the meeting. The relevant body will deliberate in camera. The Chair will provide written reasons for the decision to the member.

The Executive Committee's negative decision shall be final and binding and will be the final step in the internal appeal process. Members shall be informed of their right to appeal to external bodies when receiving written notification of the Executive Committee's decision.