

Ontario Public Service
Employees Union

OPSEU



SEFPO

Syndicat des
employé-e-s de la fonction
publique de l'ontario

Colleges of Applied Arts and Technology

Collèges d'arts appliqués de technologie

College Compensation and
Appointments Council

JGSC
Joint Grievance Scheduling
Committee

CMECRG
Comité mixte d'établissement du
calendrier de règlement des griefs



Conseil de la rémunération
et des nominations dans les
collèges

GUIDELINES FOR GRIEVANCES AND ARBITRATIONS IN THE COLLEGE SYSTEM

Issued by the
Joint Grievance Scheduling Committee
January 2006

Preamble:

This document is intended to provide an overview of the grievance and arbitration process in the college system and how the Joint Grievance Scheduling Committee (JGSC) schedules arbitration hearings.

It is not to be relied on as providing a legal interpretation on the contents of the Academic and Support Staff Collective Agreements or the grievance/arbitration processes contained within.

Introduction:

JGSC is responsible for:

- the scheduling of arbitration hearings for Academic, Support Staff and Management (please refer to Article 32 in the Academic Collective Agreement and Article 18 in the Support Staff Collective Agreement);
- discussion and possible resolution of issues that arise with regard to scheduling grievances;
- initiatives that improve the grievance scheduling process;
- ongoing review of the approved Arbitrator lists and adjustments as necessary within the two Collective Agreement mandates;
- other matters that pertain to scheduling of grievances within the college system.

JGSC meets on the first Friday of every month (excluding the summer period) to schedule grievances three months in advance for hearing dates. For example, at the September meeting, grievances will be scheduled for December and January.

Five Steps Involved in Scheduling Grievances by JGSC

Step 1 - How a Grievance is Referred

A grievance is referred to arbitration in the following manner:

- a) The Local Union advises the College in writing, as per the relevant Collective Agreement, that they are referring the grievance to arbitration. For academic grievances, either party may request to use the Expedited Process outlined in Article 33 of the Academic Collective Agreement, please refer to the section entitled "Academic Expedited Arbitration Process".
- b) The Local Union advises OPSEU that the grievance has been referred to arbitration.

- c) OPSEU forwards written notice to the College and the College Compensation and Appointments Council (Council) that the grievance has been referred to arbitration.
- d) Scheduling of the grievance is arranged through the JGSC.

Step 2 - Preparation for the Scheduling Meeting

- a) Prior to the monthly JGSC meeting, OPSEU sends a list to the Local Unions showing all the grievances that have been referred to arbitration.
- b) A Union representative of JGSC contacts the Local Union to determine the priority/status of the grievance. A "fast track" grievance is one concerning dismissal, suspension or layoff and has the highest priority, unless otherwise determined by a Local Union.
- c) Based on the information provided by the Local Unions, the Union representatives of JGSC establish the "sequence" of each grievance.
- d) The Council, on behalf of the JGSC, obtains available dates from the Arbitrators, often six (6) months to one (1) year in advance. Two (2) days before the JGSC meeting, the Council forwards to OPSEU the "open" dates for the period being scheduled. The Council will have previously contacted the Arbitrators to verify the dates provided are still available or "open". The Arbitrator's name is not given.

Step 3 - Scheduling of Grievances

- a) The following process called "blind scheduling" is used:
 - Management identifies the hearing date, the bargaining unit affiliation and any particulars regarding the Arbitrator, such as bilingual capabilities etc.
 - based on the predetermined priority, the Union provides the detail of the case, such as the OPSEU Number, grievor's name and the nature of the grievance;
 - Management then provides the Arbitrator's name.
- b) In scheduling grievances to available dates, JGSC considers special cases, such as "fast track", scheduling assignment of bilingual Arbitrators and back-to-back dates, where necessary.
- c) JGSC has agreed that at each scheduling session, only one (1) grievance date per College will be scheduled in any given week, except if mutually agreed to otherwise.

- d) JGSC has also agreed to schedule only one (1) grievance per individual grievor at each scheduling session.

Step 4 - Tentative Schedule

- a) Following the meeting, OPSEU and the Council will jointly review the Tentative Schedule before each party provides the schedule to the Local Unions and Colleges, respectively.
- b) Each party, locally, discusses the availability of their participants.
- c) Within two weeks the College and the Local Union each must either accept or decline the tentative date and inform the Council and OPSEU. A "3 x lock-in" rule applies to all Academic and Support Staff grievances. This means:
- that a College can only turn down a tentative arbitration date for the same grievance twice;
 - that a Local Union can only turn down a tentative arbitration date for the same grievance twice;
 - a party who has a conflict with a tentative date, but who cannot refuse it due to the "3 x lock-in" rule, will need to seek an adjournment from the Arbitrator, who becomes the "confirmed" Arbitrator. For example, if a Local Union has not accepted one tentative date and a College has turned down two tentative arbitration dates, then the fourth time the grievance is scheduled, if the College cannot accept the date, it will nevertheless be considered as "locked-in". In this example, the College would have to ask the now "confirmed" Arbitrator to deal with an adjournment request. On the other hand, if it is the Local Union that has a conflict with this date, then it is entitled to refuse it once more before "lock-in" takes place.
- d) The local parties should also discuss whether the grievance should be heard before a sole arbitrator or a tripartite board and inform both OPSEU and the Council. If no contrary agreement is made, then the hearing will be before a tripartite board.
- e) Prior to scheduling, the local parties should discuss the possibility of any combined grievances (an arbitration date where more than one (1) grievance will be scheduled).
- f) Once the "Tentative Schedule" is distributed, the Local Union and the College shall notify OPSEU and the Council, respectively:
- i) whether they agree to the combination (if applicable); and

- ii) whether the tentative date is accepted or declined.
- g) If there is no agreement about the combination only one grievance will be scheduled. The Local Union shall identify a "priority" grievance and notify the College, OPSEU and the Council.
- h) If the tentative date is accepted by the parties, but the combination is not, then JGSC agrees that only the "priority" grievance will be assigned by it to that date.

In this circumstance, if one of the local parties wishes to argue before the Arbitrator that the "priority" grievance should be combined with another grievance(s), then that party must give the Arbitrator and the other party advance written notice of its intent (if possible, a minimum of two (2) weeks). The notice must indicate the grievance(s) the party is seeking to have combined.

- i) If the tentative date is not acceptable, then the local parties must notify OPSEU and the Council, respectively.

Step 5 - Confirmed Schedule

- a) A "tentative" date will only be "confirmed" if the local parties have agreed to the date and notified OPSEU and the Council, respectively.
- b) The "Confirmed Schedule" is issued showing all grievances that have been scheduled and the Arbitrator who has been assigned.
- c) The JGSC offers "open dates" from the Tentative schedule to the Colleges and the Local Unions. If there are any unassigned dates remaining from the second month of the schedule, they will be held for the JGSC to use at their next meeting.
- d) OPSEU and the Council each assign their respective Nominees to arbitration hearings that require a tripartite board.

Support Staff Classification Grievances

Classification grievances are referred and scheduled in the same manner as regular grievances, except the grievances are scheduled before arbitrators named in the Collective Agreement, who are trained in using the evaluation system.

Expedited

The expedited process is the norm for classification grievances. These grievances are heard by a sole arbitrator in a more informal setting. Legalistic processes normally used in conventional arbitrations are not used.

Full Board

Classification grievances can be referred to a full board by mutual agreement of the College and Local Union. Either party may also recommend a referral in its written submission to the arbitrator.

The arbitrator may decide the grievance should be heard before a full board after receipt of documents in Articles 18.4.3.3 or 18.4.3.4, or at the expedited hearing.

These grievances are heard before a tripartite board unless the local parties provide notice to OPSEU and the Council, respectively.

Academic Expedited Arbitration Process

The Academic Expedited Arbitration Process is outlined in Article 33 of the Academic Collective Agreement. In referring a matter to arbitration, the Academic Local Union must indicate on the referral notice that it wishes to use the expedited process.

The College has five days to respond in writing to the Academic Local Union.

If there is no agreement to use the expedited process, the grievance will be scheduled as outlined in the section "Five Steps Involved in Scheduling Grievances by JGSC".

If there is agreement, then the following steps apply:

1. Create a College List of Arbitrators, using the Arbitrators listed in Article 32.04 A in the Academic Collective Agreement plus other individuals that the local parties have agreed to.

2. Select an Arbitrator from the College List. If, after 5 days, the parties cannot agree upon an individual, an Arbitrator is chosen by "lot". The Local Union and the College must decide on how this is accomplished.
3. If the parties agree, more than one grievance can be heard before the Arbitrator.
4. The local parties must agree upon the number of hearing days needed. If no agreement is reached, the Arbitrator will schedule two hearing days.
5. If the Arbitrator cannot provide an acceptable date or if the date is more than four months away, the parties can agree to select another Arbitrator (using the process outlined in Step 2) or accept the date initially offered.
6. If either party refuses a proposed date more than twice (for the same grievance), then an adjournment must be sought with the selected Arbitrator.
7. Fourteen days prior to the first hearing date:
 - a) the Local Union will provide the College and the Arbitrator a written statement of facts and its position
 - b) in a case of reverse onus, such as discipline, the College will provide the Local Union and the Arbitrator a written statement of facts
8. At least 7 days prior to the first hearing date:
 - a) if either party plans to raise a preliminary objection, they must notify the other party and the Arbitrator. In the written notice, the initiating party must indicate the nature of the preliminary objection. If notification occurs after this time, then the preliminary objection will not be considered.
 - b) if requested, the parties will provide all documentation they intend to rely on in the arbitration
9. Upon receipt of the preliminary objection the Arbitrator will decide:
 - a) whether it is more expeditious to rule on the objection immediately; or
 - b) reserve the ruling and adjourn the hearing; or

- c) reserve on the ruling of the preliminary objection and proceed based on the merits of the case.
10. The Arbitrator will provide a written decision within 45 days of the last hearing date, unless extended by both parties. If the parties agree, the Arbitrator can provide a verbal decision with the written reasons to follow.
11. The Local Union and the College must provide a copy of the written decision to OPSEU and the Council, respectively.

Process for Scheduling Management Grievances Referred to Arbitration

The following steps are used when scheduling grievances referred to arbitration by Management:

- a) The College advises the Local Union in writing, as per the relevant Collective Agreement that they are referring a matter to arbitration. A copy is also provided to the Council.
- b) The College advises the Council and the Local Union that the grievance has been referred to arbitration.
- c) Within 15 days from the date of receipt of a Management grievance referred to arbitration, the Management Co-Chair of JGSC will inform both the Union Co-Chair and the OPSEU Grievance Office.
- d) The Union will schedule any Management grievances referred to Arbitration by application date when establishing their priorities for the next scheduling period.

Attachment A - January 2007

For more information about the grievance/arbitration process, please contact:

- OPSEU Grievance Department
- The Council
- A Member of JGSC:

Union

Mary Ann White (Co-Chair)
Ross Langill (Co-Chair)
John Bisset
Ann Cummings
Gary Fordyce
Cameron Walker
Pierre Perreault

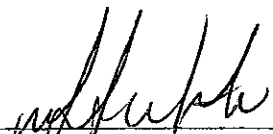
St. Lawrence
St. Clair
Durham
Fanshawe
Fanshawe
OPSEU
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Management

Sandi Johnson (Co-Chair)
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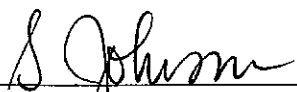
Dated in Toronto, Ontario, this 1st day of February, 2007



Mary Ann White
Co-Chair, JGSC (OPSEU)



Ross Langill
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