

Directive on classification grievances

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Directive on Classification Grievances

1. Effective date

- 1.1 This directive takes effect on April 1, 2020.
- 1.2 This directive replaces the *Directive on Classification Grievances* dated July 1, 2015.

2. Authorities

- 2.1 This directive is issued pursuant to the same authorities indicated in section 2 of the *Policy on People Management*.

3. Objectives and expected results

- 3.1 The objectives of this directive are as follows:
 - 3.1.1 Establish a consistent and equitable grievance process for employees; and
 - 3.1.2 Ensure that classification grievances are handled and resolved with transparency and fairness.
- 3.2 The expected results of this directive are as follows:
 - 3.2.1 Classification grievances are dealt with consistently; and
 - 3.2.2 Classification grievance decisions are fair, equitable and consistent with the relevant occupational group definitions and job evaluation standards.

4. Requirements

- 4.1 The senior official designated by the deputy head for classification grievances is responsible for the following:
 - 4.1.1 Deciding and responding to classification grievances according to the authority delegated by the deputy head;
 - 4.1.2 Notifying the deputy head before making a decision where the classification grievance results may:
 - 4.1.2.1 Have a significant impact on the occupational group allocation or classification level of other positions within the organization;

- 4.1.2.2 Have an impact on similar positions in other organizations;
- 4.1.2.3 Substantially affect program management or union–management relations; or
- 4.1.2.4 Result in a minority recommendation being accepted;
- 4.1.3 Obtaining the deputy head’s approval before making a decision to reject either the unanimous recommendation or the minority and majority recommendations of the Classification Grievance Committee.
- 4.2 The head of human resources is responsible for the following:
 - 4.2.1 Ensuring that all classification grievances are examined and assigned for action upon receipt;
 - 4.2.2 Ensuring that, for grievances that proceed to a hearing, Classification Grievance Committees are established in accordance with the mandatory procedures in the appendix to this directive;
 - 4.2.3 Ensuring that members of the Classification Grievance Committee and the grievor’s representative or the grievor, if the grievor is not represented, are provided the information and documentation for the classification grievance hearing at least 21 calendar days before the hearing date;
 - 4.2.4 Ensuring that a management representative familiar with the work of the grieved position is identified to respond to requests for information from the Classification Grievance Committee members;
 - 4.2.5 Ensuring that a response to the grievor is provided no later than 80 calendar days after the day on which the immediate supervisor or the local officer-in-charge received the grievance or within the agreed-upon extension;
 - 4.2.6 Ensuring that final and binding classification grievance decisions are recorded in the departmental human resources information management system; and
 - 4.2.7 Ensuring that the documentation and information in the classification grievance files and the data entered in the Office of the Chief Human Resources Officer’s Classification Grievance Tracking System are complete and accurate.
- 4.3 The Classification Grievance Committee chairperson is responsible for the following:
 - 4.3.1 Ensuring that the committee members and the grievor are informed of the committee’s mandate and of the grievance procedures before, during and after the hearing;

- 4.3.2 Informing the grievor and the grievor's representative that:
 - 4.3.2.1 All aspects of the classification of the grieved position will be reviewed by the committee;
 - 4.3.2.2 The decision could result in the upgrading, confirmation or downgrading of the grievor's position; and
 - 4.3.2.3 The decision will be final and binding;
 - 4.3.3 Obtaining, when required, agreement from the grievor's representative (or the grievor, if the grievor is not represented) to extend, for a specified period, the deadline beyond the 80-calendar-day limit;
 - 4.3.4 Conducting classification grievance hearings in accordance with the mandatory procedures in the appendix to this directive; and
 - 4.3.5 Ensuring that the committee's report is drafted within the prescribed time limit or agreed-upon extension.
- 4.4 The members of the Classification Grievance Committee are responsible for the following:
- 4.4.1 Fulfilling their responsibilities in accordance with the mandatory procedures in the appendix to this directive;
 - 4.4.2 Establishing the appropriate classification (that is, the occupational group, subgroup (if applicable), level and ratings) of the grieved position based on:
 - 4.4.2.1 The work assigned by the manager and described in the job description;
 - 4.4.2.2 The organizational context; and
 - 4.4.2.3 The information received in the context of the grievance hearing;
 - 4.4.3 Submitting to the deputy head (or senior official designated by the deputy head where the responsibilities have been delegated) a report that includes a recommendation on the classification of the grieved position, which is equitable and consistent with the occupational group definitions and the relevant job evaluation standard;
 - 4.4.4 Not disclosing or discussing any aspects of the proceeding or of the committee's recommendation with, or being influenced by, outside parties.
- 4.5 Managers are responsible for:
- 4.5.1 Providing information to Classification Grievance Committee members when requested to do so in accordance with the mandatory procedures in the appendix to

this directive.

4.5.2 For greater certainty, management representatives may not:

4.5.2.1 Argue in favour of, or against, the existing classification decision;

4.5.2.2 Attempt to influence the committee members;

4.5.2.3 Participate in the committee's deliberations; or

4.5.2.4 Be present when the grievor or the grievor's representative makes a presentation to the committee.

4.6 Employees are responsible for:

4.6.1 Choosing among the following representation options:

4.6.1.1 To be represented by their employee organization or by any other person of their choice who is not a representative of another employee organization if they are included in a bargaining unit;

4.6.1.2 To be represented by any employee organization or any person of their choice if they occupy an unrepresented position or a confidential or managerial position; or

4.6.1.3 represent themselves;

4.6.2 Making arrangements for leave from their place of work if they wish to be present at the grievance hearing; and

4.6.3 Assuming the expenses they incur, unless otherwise specifically provided for in the relevant collective agreement or the employee's terms and conditions of employment.

5. Roles of other government organizations

5.1 Not applicable.

6. Application

6.1 This directive applies to all positions, including those within the Executive (EX) Group, in the organizations listed in section 6 of the *Policy on People Management*.

6.2 This directive does not apply to members of the Royal Canadian Mounted Police.

7. References

7.1 Legislation

- *Financial Administration Act* (sections 7 and 11.1)
- *Federal Public Sector Labour Relations Act* (Part 2)
- *Federal Public Sector Labour Relations Regulations* (Part 2)

7.2 Related policy instruments

- *Policy on People Management*
- *Policy on the Management of Executives*
- *Directive on Classification*
- *Directive on Classification Oversight*
- *Directive on Executive Group Organization and Classification*
- *Job evaluation standards*
- *Occupational Group and Subgroup Definitions*

9. Enquiries

- 9.1 Human resources advisors should direct enquiries about this directive to the departmental human resources office.
- 9.2 For interpretation of any aspect of this directive, contact [Treasury Board of Canada Secretariat Public Enquiries](#).
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Appendix: Mandatory Procedures for Classification Grievances

A.1 Effective date

- A.1.1 These procedures take effect on April 1, 2020.

A.2 Procedures

- A.2.1 These procedures provide details on the requirements set out in section 4 of the *Directive on Classification Grievances*.

Right to grieve

- A.2.2 The *Federal Public Sector Labour Relations Act* determines who has the right to grieve.

Withdrawal of a grievance by the employee

A.2.3 The grievor may withdraw their grievance at any time before a decision is issued by giving signed written notice to the immediate supervisor or the grievor's local officer-in-charge.

Presenting a classification grievance

A.2.4 A classification grievance is presented in writing to the employee's immediate supervisor or local officer-in-charge, as determined by the organization, using the [grievance form](#) provided by the employer.

A.2.5 A classification grievance must include the following:

A.2.5.1 Substance of the grievance;

A.2.5.2 Position title;

A.2.5.3 Position number;

A.2.5.4 Classification of the position being grieved;

A.2.5.5 Corrective action being requested;

A.2.5.6 Name of the grievor's representative, if applicable.

A.2.6 The grievance form must be signed and dated by the grievor.

Presentation at final level

A.2.7 A classification grievance must be presented at the final level of the departmental grievance process.

Acknowledging receipt of the grievance

A.2.8 On receipt of a classification grievance, the immediate supervisor or local officer-in-charge must sign and date the grievance form.

A.2.9 The immediate supervisor or local officer-in-charge must return the signed and dated copy of the grievance form to the grievor or the grievor's representative, if any, and transmit the grievance to the deputy head (or in cases where responsibilities have been delegated, to the senior official designated for classification grievances).

Initial examination of a classification grievance

A.2.10 With regard to the requirements in subsection 4.2.1 of the directive, the procedure for the initial examination and processing of a grievance is as follows:

- A.2.10.1 The person responsible for conducting the initial examination of a classification grievance ensures that it was presented:
 - A.2.10.1.1 By an employee of the core public administration;
 - A.2.10.1.2 No later than 35 calendar days after the day on which the employee received notification or, when the employee has not received such notification, no later than 35 calendar days after the day on which the employee first became aware of an action or circumstance affecting the classification of the position the employee occupied; and
 - A.2.10.1.3 In accordance with the requirements of the directive and of the *Federal Public Sector Labour Relations Act* and the *Federal Public Sector Labour Relations Regulations*;
- A.2.10.2 If a classification grievance is rejected following initial examination, the deputy head (or senior official designated for classification grievances, when applicable) issues the decision to reject the grievance and responds to the grievor accordingly;
- A.2.10.3 Where the person responsible for the initial examination determines that:
 - A.2.10.3.1 A job content grievance for the position being grieved has also been presented, the classification grievance is put in abeyance until the resolution of the job content grievance; or
 - A.2.10.3.2 The effective date of the grieved position is also grieved, both grievance processes may proceed concurrently. For the classification grievance process, the authorized effective date of the grieved position remains in effect for the purposes of the classification grievance process unless the date is changed as a result of the labour relations grievance process;
- A.2.10.4 If, after initial examination, it is determined that the classification decision of the position being grieved should be re-examined, the person responsible for the re-examination:
 - A.2.10.4.1 Places the classification grievance in abeyance pending the outcome of the re-examination;
 - A.2.10.4.2 Formally informs the grievor of the results of the re-examination once completed; and

A.2.10.4.3 Ensures that the grievance is dealt with in accordance with the procedures outlined in this appendix when the grievor wishes to continue with the grievance that had been held in abeyance, or is otherwise withdrawn.

Scheduling

A.2.11 Once it is determined that a grievance is ready to proceed, the person responsible contacts the case management officer for classification grievances at the Office of the Chief Human Resources Officer to establish a hearing date.

A.2.12 Once the date has been established, the person responsible formally notifies the grievor and their representative at least 21 calendar days in advance of:

A.2.12.1 The date, time and location of the hearing; and

A.2.12.2 The opportunity to make a presentation to the Classification Grievance Committee.

Establishment of the Classification Grievance Committee

A.2.13 With regard to the requirements in subsection 4.2.2 of the directive, a Classification Grievance Committee composed of three members is established, which includes:

A.2.13.1 A chairperson, who is accredited in classification;

A.2.13.2 A grievance officer from the Office of the Chief Human Resources Officer; and

A.2.13.3 An individual from within or outside the organization, preferably a manager, who has knowledge of the job evaluation standard(s) being used and the work being evaluated.

A.2.14 If the grievance pertains to a classification decision authorized by the deputy head, the grievance officer from the Office of the Chief Human Resources Officer will chair the Classification Grievance Committee.

A.2.15 Wherever possible, the committee should be gender-diverse.

A.2.16 The person responsible ensures that the members of the Classification Grievance Committee meet the following criteria:

A.2.16.1 They did not participate in the classification decision of the position being grieved;

A.2.16.2 They are neither supervising the position in question, nor are they in any situation of real or apparent conflict of interest; and

A.2.16.3 They are unrepresented or occupy a managerial or confidential position.

Documentation and information requirements

A.2.17 For purposes of conducting a classification grievance hearing as provided for in subsection 4.4.1 of the directive, each member of the Classification Grievance Committee and the grievor or the grievor's representative, if applicable, are sent the following documentation at least 21 days before the hearing date:

A.2.17.1 The grievance presentation form;

A.2.17.2 The classification action form ("Expanded Position Action Report");

A.2.17.3 The notice of classification decision or other document indicating the date on which the grievor was notified or became aware of the action giving rise to the grievance;

A.2.17.4 The rationale for the classification decision of the position being grieved;

A.2.17.5 Job description forming the basis of the classification decision being grieved, approved and dated and indicating the date when the work was assigned;

A.2.17.6 The approved organizational chart that was in effect for the period covered by the grievance, which accurately reflects the organizational location of the grieved position and its relationship to other positions in the same unit or division;

A.2.17.7 The supervisor's job description;

A.2.17.8 The job descriptions for any immediate subordinate positions, when requested;

A.2.17.9 The job validation report, if available;

A.2.17.10 Any other pertinent information that may help resolve the grievance (for example, a departmental study or precedents); and

A.2.17.11 Written submissions from the grievor or the grievor's representative, if available.

Hearing

- A.2.18 With regard to the requirements in subsection 4.3.4 of the directive, to ensure that the grievance hearing is not perceived as adversarial, the procedure for the Classification Grievance Committee hearing is as follows:
- A.2.18.1 The grievor and the grievor's representative are given an opportunity to make a presentation to the Classification Grievance Committee, in person, by teleconference, video conference or in writing, and respond to the questions the committee members may have, after which the chairperson will request that they leave for the remainder of the hearing;
 - A.2.18.2 The committee contacts the management representative identified to respond to questions about the position, where necessary;
 - A.2.18.3 The management representative responds to the committee's questions;
 - A.2.18.4 The committee calls upon other people to provide additional information or conducts a job validation review, as necessary;
 - A.2.18.5 The committee provides the grievor with the opportunity to respond to new or contradictory information that it deems relevant and that the grievor could not reasonably have known.

Committee deliberations

- A.2.19 With regard to the requirements in subsection 4.4.2 of the directive, the Classification Grievance Committee will establish the appropriate classification by:
- A.2.19.1 Deliberating in camera;
 - A.2.19.2 Examining the information that has been presented or submitted;
 - A.2.19.3 Evaluating the work assigned to the position and described in the job description, taking into consideration the organizational context, against the appropriate job evaluation standard;
 - A.2.19.4 Disregarding information about the possible financial implications of changes to the classification decision;
 - A.2.19.5 Reviewing all aspects of the classification decision being grieved (the group and subgroup allocation, the level and the ratings, if applicable), even though in some instances not all aspects are being challenged;
 - A.2.19.6 Attempting to reach a consensus when evaluating the position;
 - A.2.19.7 Preparing minority and majority reports if consensus cannot be reached;

- A.2.19.8 Recommending one of the following:
 - A.2.19.8.1 That the current classification decision be confirmed;
 - A.2.19.8.2 That there be a change in the evaluation;
 - A.2.19.8.3 That the position be reclassified to a higher or lower level within the same or a different occupational group; or
 - A.2.19.8.4 That the position be allocated to a different occupational group or subgroup;
- A.2.19.9 Determining, in the case of a grievance against a position for which a previous grievance decision has been issued, if a significant change has occurred. If the committee considers that:
 - A.2.19.9.1 No significant change has occurred, a recommendation to support this conclusion is made to the deputy head (or senior official designated by the deputy head where the responsibilities have been delegated); or
 - A.2.19.9.2 One or more significant changes have occurred, the committee reviews the case and makes a recommendation accordingly.

Classification Grievance Committee report and recommendation

- A.2.20 With regard to the requirements in subsection 4.4.3 of the directive, the chairperson of the Classification Grievance Committee will ensure that the committee prepares a report that:
 - A.2.20.1 Summarizes the nature of the complaint;
 - A.2.20.2 Summarizes the key points made in support of the grievance by or on behalf of the grievor;
 - A.2.20.3 Summarizes the information provided by the management representative;
 - A.2.20.4 Indicates, for ratings that have been contested by the grievor or that have been modified by the committee after review, how the committee arrived at its recommendation by providing an analysis of the work assigned to the grieved position and described in the job description in relation to:

- A.2.20.4.1 The occupational group and subgroup (when applicable) definitions and job evaluation standard(s);
 - A.2.20.4.2 The arguments (in particular, the proposed ratings and benchmark positions) made by, or on behalf of, the grievor; and
 - A.2.20.4.3 The information presented by management;
 - A.2.20.5 Includes a justification for all ratings if no departmental rationale was provided with the grievance case documentation;
 - A.2.20.6 Contains one of the recommendations described in subsection A.2.19.8 with regard to the classification of the work assigned to the grieved position and described in the job description; and
 - A.2.20.7 Is approved by all committee members.
- A.2.21 The Classification Grievance Committee submits its report to the deputy head (or in cases where responsibilities have been delegated, to the senior official designated for classification grievances) for decision.

Classification grievance decision

- A.2.22 With regard to the requirements in subsections A.2.1 and A.2.2 of Appendix A of the *Policy on People Management* and in subsection 4.1.1 of the directive, upon receiving the Classification Grievance Committee's report and recommendation, the deputy head (or senior official designated by the deputy head where the responsibilities have been delegated) shall do one of the following:
- A.2.22.1 Approve the committee's recommendation if the report is unanimous;
 - A.2.22.2 Approve the recommendation provided in either a majority report or in a minority report;
 - A.2.22.3 Reject the committee's recommendation(s).
- A.2.23 If the senior official designated by the deputy head accepts the recommendation of a minority report, the senior official notifies the deputy head before issuing a decision.
- A.2.24 If the senior official designated by the deputy head rejects the Classification Grievance Committee's recommendations, the decision and the reasons tied to the Committee's justification must be:
- A.2.24.1 Personally approved by the deputy head;

- A.2.24.2 Communicated to the grievor or their representative; and
- A.2.24.3 Communicated to the Assistant Deputy Minister, Employment Conditions and Labour Relations Sector, Office of the Chief Human Resources Officer.

Response to the grievor

- A.2.25 With regard to subsection 4.2.5 of the directive, the head of human resources will ensure that the grievor and the grievor's representative, if any, are provided with the final and binding classification grievance decision, which must state the classification and the effective date of the decision, and with the Classification Grievance Committee report approved by the deputy head (or senior official designated by the deputy head, when applicable).
- A.2.26 Copies of the report, the decision and the correspondence notifying the grievor of the outcomes are sent to the responsible manager and to the case management officer for classification grievances at the Office of the Chief Human Resources Officer.

Decision is final and binding

- A.2.27 The decision that results from the classification grievance is final and binding for all purposes of the *Federal Public Sector Labour Relations Act*.

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