



Introduction to the New Grievance Procedure

Why a new procedure?

The Collective Agreement between the Yukon government and its employees in effect between January 1, 2003 and December 31, 2006, completely changed the way a “grievance” – a complaint by an employee – is handled. The new process didn’t just change the steps both sides must follow; it changed whole idea about what a grievance means, as well as the tone and purpose of the meetings needed to deal with these complaints.

Under the old rules, there were many problems that seemed to be built into the system.

- The procedure was stiff and formal – in effect each meeting was a hearing. Every step in the old procedure required written documentation, section numbers, and a careful paper trail.
- Each time a grievance moved to a higher decision level, the hearing relied on what happened at the lower level.
- At each point, the employer gave a “decision”. If the employee disagreed, an “appeal” had to be filed. It was like a mini-trial.
- What happened in one case was sometimes used to decide a new case, regardless of the personal aspects of the case.
- The procedure was very long and drawn-out. Delays were common. All final decisions rested with the Public Service Commissioner, which created problems with scheduling.
- Hearings were confrontational by nature.

Both the union and the employer recognized that a new approach was needed. This joint buy-in made it much easier to create a new procedure. In fact, the sections of the collective agreement containing this new procedure were approved during pre-bargaining, before the negotiation process even started.

Both sides tried to anticipate the likelihood of future conflicts, and create a way to deal with them if they occur. Putting a practical and simple method in place to respond to conflicts makes it much less likely that tensions will poison the workplace environment.

The new Collective Agreement fixed a major problem with the old grievance procedure – response time. The new, strict time frames are quite an improvement over the old process. Most people with experience in the old

Part of the reason for the delays was the formality of the procedure, which meant that the people involved sometimes had to be more concerned with doing everything “by the book”, than with simply finding a solution that works for everyone. Furthermore, at the final level, a hearing depended on the availability of the Public Service Commissioner. Now grievances **must** be dealt with in a timely fashion.

The basic idea

- The idea is to **solve the problem**. The purpose isn’t to win an argument, prove a point, or punish anyone.
- Whatever solution a worker and the employer find, the solution only affects that specific situation. No one else can point to that case to stop or delay a future grievance, or to say that a decision has already been made.
- All the facts of the case **must be shared** between all the people involved. This is true at each level. Since the goal is to fix the problem as quickly as possible, and at the lowest level, there’s no point in holding any information back to use later on.
- The **time limits** at each step in the process are important, and can only be changed or extended if both the worker and the employer agree, or when something unavoidable made it impossible for one or both to meet the time limit. Be sure to keep the time limits in mind throughout the process.
- The employer cannot, for any reason, prevent an employee from submitting a grievance.
- If the employee is still not satisfied with the resolution of the grievance after all steps are complete, the matter may be referred to **adjudication** with the approval of the Union.

Both the union and the employer have grievance administrators who “track” the grievance through the system at each level, and keeps records. This tracking includes recording critical dates and the result of the process.

Meanings and definitions

A “**grievance**” is a written complaint. It can be about how the employer is using the collective agreement. An employee may also disagree with the employer about what the agreement means, and file a grievance about that. As well, a grievance can be used if the employee thinks that the terms and conditions of their job have changed unfairly, or are not being honoured.

The new grievance procedure cannot be activated verbally, but requires a written submission. An Issue Presentation/Grievance Form is available from the shop steward, the YEU office or the employer. While a grievance will be accepted if it is not submitted on this form, use of the form will speed the process and ensure all requirements are met.

A “**grievance**” is *not* a tool for dealing with suspensions, dismissals, or competition appeals. Nor should this particular process be used to file harassment or discrimination grievances. All these issues are properly addressed through separate processes, with the assistance of a Service Officer or other designated union representative.

Grievances are also not the right tool for day-to-day discussions and the occasional disagreements that can occur between employees and their supervisors. In fact, one of the basic ideas behind the new procedure is problem solving, something that can most often be achieved by fair and open discussion in the workplace.

The “**grievance procedure**” is the agreed way a complaint can be heard. It is nothing more than a standardized set of steps to follow when someone has a complaint or a problem.

Progressive steps

There are two basic principles behind most grievance procedures.

The first principle is the idea of progressive levels or steps through which a complaint can pass. Under the new procedure, attempts to resolve a grievance begin with a first step where a complaint can be heard quickly and informally by the people immediately involved.

Many grievances can be resolved quickly by sharing information, correcting a misunderstanding, or by simply agreeing to a solution. In this case the new grievance procedure saves time, money, and maybe

most importantly, the relationship between the parties. Having the issue handled by those immediately involved has an added benefit – the employee and the supervisor know more about the problem at hand than do people at higher levels. If the first problem-solving level fails, the issue can be advanced to successively higher levels.

The second principle is to ensure that another procedure – adjudication by an independent third party – is normally available if the complaint can't be resolved at any of the internal grievance levels.

Types of grievances

The Collective Agreement allows for three kinds of grievances.

1. Individual Grievances
2. Group Grievances
3. Policy Grievances

A union-employee of the Yukon government has the right to submit an “**individual grievance**” – one that is about that employee's own situation. These grievances are filed to the employee's supervisor.

A “**group grievance**” can be filed when more than one employee has been affected in the same way by a decision of management. All the employees in a group grievance must want a similar solution, or “redress”. In this case, the names of all employees who are part of the grievance are attached. One example might be the cancellation of vacation leave for everyone in the group. Group grievances are filed directly to Level 2 (the first level of management).

A “**policy grievance**” involves how the Collective Agreement is interpreted, and matters that affect the union as a whole. These grievances are only filed by the union (not an individual member), and are filed directly to the Public Service Commissioner.

Detailed Steps

Details of the steps for filing a grievance under the new procedures are published jointly by the PSC and YEU. A handy business card size summary is also available from either the Public Service Commission or the Yukon Employees' Union.