

Labour Relations Advice

ESTABLISHING PROCEDURES TO ENHANCE COLLEGIAL GOVERNANCE

For the better part of the past two years, the FSA has been conducting training across the Institute to better inform our members of their collegial governance rights and responsibilities. Our members have robust rights when it comes to Departmental planning, including but not limited to coverage/workloading, vacation scheduling, and processes for assembling selection committees. In practice, however, asserting these rights requires Departments have established operational conventions. The governance practices of BCIT Departments are not dictated by external statutes in the way that, say, a non-profit society in BC may be governed by the provincial Societies Act. Departments are instead defined by the Collective Agreement (CA), which does not contain programmatic procedural details. As a result, your Department can be guided by ‘commonsense’ or ‘reasonableness’ when making procedural decisions. In transitioning from understanding rights in principle

to using them in practice, there are some basic steps a Department may take. This Labour Relations tip will focus on calling and then conducting a reasonable Department meeting.

Calling a Departmental meeting:

- Make the timing convenient
- Include any specific language for a decision known ahead of time
- Ensure that all Department members are invited and that a reasonable amount of notice is provided—say two weeks or more
- Consider using Zoom, either as a hybrid option or fully online, especially if Department members are spread out geographically
- Remember that your manager is a member of the Department, so be sure to include them in the invitation

THE RIGHT TO UNION REPRESENTATION DURING EMPLOYER MEETINGS

You have been asked to attend a meeting with your manager and wonder, “do I get to bring a union representative?” There are instances when you absolutely have the right to union representation and others where you don’t or where bringing a representative wouldn’t make sense. Each situation is case-specific and governed by your Collective Agreement language. Your FSA Collective Agreement is robust in this regard. Article 19.1.4 states that:

An Employee shall have a representative of the Union present at any meeting called by the Employer under the provisions of Article 19.

Where there is a possibility of discipline, most employers will ensure that the employee has union representation to guard against the discipline imposed (if any) being set aside at a later date by an arbitrator. The fifth edition of *Canadian Labour Arbitration* by Brown and Beatty (available as an online resource with the BCIT Library), recognized as the authority on the issue, indeed states:

One of the most important ways that collective agreements shape the structure of the disciplinary process is by guaranteeing that employees will be able to call on their unions for help when faced with the threat of discipline.

- If one sends out a message to everyone in the Department, providing all an opportunity to participate at a fairly convenient forum, Departmental business can be said to have proceeded reasonably

During the meeting:

- Keep a written record of any decisions, noting at least:
 - Attendees
 - Exact language of decision
 - Date
 - Result
 - Time
- Typically, a decision is made by vote, and it is perfectly reasonable to use 50 percent as a threshold for that vote, especially where a decision of 'yes' or 'no' must be made
- It is good practice to keep notes regarding the preceding discussion



We've noted that the FSA agreement has strong language to protect you in these meetings, yet it is not absolute and applicable across the board. Not every meeting with your manager will offer you the opportunity for union representation.

This being the case, when are you not entitled to union representation? There are many occasions, but some examples include general staff meetings and annual performance reviews. Insisting on union representation or refusing to attend such meetings could lead to perceived insubordination and potential discipline. There are exceptions to this, and as mentioned above, each situation is case-specific. If you are unsure,

- In general, group decision making requires that everyone have an opportunity to speak to the proposal in question
 - Let individuals that haven't spoken speak before those who have spoken twice or more already
 - If the language is available ahead of time, provide individuals who cannot attend the meeting the opportunity to submit their comments
- After the meeting, share the record of the decision with the members and your manager, noting where the record will be stored permanently so that all parties can refer to it as needed

These points constitute advice on how to successfully establish protocols through which strong collegial governance practices may follow. By instituting these practices, it becomes very clear that your Department has made a decision together, which in turn supports claims to democratically established protocols.



contact the FSA (fsa@bcit.ca) and we can guide you to the appropriate response.

Your rights stemming from Article 19 of the Collective Agreement are powerful yet pragmatic. To be used effectively requires the application of this language in proper situations and in consultation with labour relations professionals at the FSA.

Michael Thompson
BCITFSA LABOUR RELATIONS REPRESENTATIVE