

# Job Content and Classification Grievance Toolkit

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## A Preliminary Explanation about the Job Content and Classification Process

Classification is important as it dictates the level of pay, not to mention the identity of the bargaining agent.

Classification decisions which are made by a departmental Classification Grievance Committee, are based on the employee’s current work description and the [classification standard in effect](#). Accordingly, it is important to ensure that members who wish to dispute a classification decision first file a job content grievance, where the main basis of the member’s dispute relates to the inaccuracy of the member’s work description. For a copy of the upcoming classification standard, which has yet to receive Treasury Board approval, [click here](#).)

Article 33.01 of the AJC Collective Agreement provides as follows:

“Upon written request, a lawyer shall be entitled to a complete and current statement of the duties and responsibilities of his position including the position’s classification level and point rating allotted by factor where applicable, and an organization chart depicting the position’s place in the organization.”

Article 24.08(d) of the AJC Collective Agreement states:

“A lawyer may not present an individual grievance relating to the interpretation or application, in respect of the lawyer, of a provision of a collective agreement or an arbitral award unless the lawyer has the approval of and is represented by the Association”.

Job content grievances are governed by the grievance procedure set out in the collective agreement.

Members who receive a revised work description or their work description for the first time have, pursuant to Article 24.12, “25 working days after the earlier of the day on which the grievor received notification and the day on which the grievor had knowledge of the alleged violation or misinterpretation or any occurrence or matter affecting the grievor’s terms and conditions of employment. “ In other words, members have 25 working days to file a job content grievance from the date on which they received their revised work description or become aware of a material discrepancy between their work description and the actual duties or responsibilities that they are required to perform on a regular basis.

Prior to initiating a job content grievance however in the case of a member becoming aware of a material discrepancy between his/her job description and the actual duties or responsibilities that he/she is required to perform on a regular basis, the AJC encourages the member to request a revised statement of duties from his/her supervisor. Having said this, be reminded that members’ rights are only triggered once a grievance is filed with retroactive effect of no more than 25 working days prior to the filing of a grievance. Accordingly, members will want to give their supervisor a limited window of opportunity to comply with their request for a current statement of duties before exercising their right to grieve.

Following a request for a statement of duties, there are 3 possible outcomes:

1. The member is provided with an unchanged statement of duties;
2. The member’s request is refused or ignored; or
3. The member is provided with a revised statement of duties capturing the material changes to the member’s duties or responsibilities, following which the job description is forwarded to the classification committee for a new classification decision.

In scenarios 1 and 2 above, the member may wish to exercise his/her right to grieve. In scenario 3, the member may wish to exercise his/her right to grieve only to the extent that the member disagrees with the revised job description. Again, the AJC encourages dialogue with the supervisor on the revised job description before it is finalized and forwarded to the classification committee for a new classification decision.

## **What must a member do to file a job content grievance?**

1. The member should duly complete the attached [Treasury Board Form](#).
  - a. Box B should include either of the following texts:

“I grieve that management has violated the Statement of Duties article of my collective agreement by failing to provide with a complete and current

statement of the duties and responsibilities of my position, including the classification level and where applicable, the point rating by factor to my position and an organization chart depicting my place in the organization.”

OR

“I grieve management’s failure to provide me with a complete and current statement of duties and responsibilities. This violates the Statement of Duties Article of my collective agreement.”

- b. Box C should include the date on which you received your statement of duties or the date on which you realized the discrepancy between your statement of duties and the roles and responsibilities that you are required to perform on a regular basis.
- c. Box D should include the following:

“That the duties and responsibilities be added to my statement of duties in order to meet the requirements of the Statement of Duties article of my collective agreement.”

- 2. This grievance should be filed with your immediate supervisor with the assistance of the AJC, who shall be required to provide you with conditional support to preserve your timelines, pending a review of the Representations Committee.

## **How does a member request AJC assistance on a job content grievance?**

- 1. The following information must be provided to the AJC Labour Relations Officer that has been assigned to the member:
  - a. A completed [Incident Form](#)
  - b. A copy of the current work description
  - c. A written explanation listing the duties and responsibilities the member believes are missing from the statement of duties
  - d. Evidence that the “missing duties and responsibilities” are
    - i. Mandatory and
    - ii. Performed on a regular basis.<sup>i</sup>
- 2. A Labour Relations Officer will then conduct an initial assessment and provide advice to the member, which may include, filing a grievance on his/her own with conditional support by the AJC for the purposes of meeting the requirements of Article 24.08(d) of the collective agreement, pending a decision from the Representations Committee regarding the provision of representation services, in order to preserve the member’s grievance rights.
- 3. Should, following the advice received, the member wish to pursue or continue to pursue a request for representation services, the Labour Relations Officer will submit your request including your list of representations to the Representation Committee for a decision.
- 4. A decision with reasons will then be issued. For more information on the factors considered by the Representations Committee, you may refer to the [Representation Services Policy](#).
- 5. If the Representations Committee concludes that that the chances of success are low in light of the evidentiary criteria listed in items 1c) and d) above, the Representations Committee will

likely not support the member's request. Should this occur, the member may be asked to withdraw their grievance. Alternatively, the AJC may formally withdraw its support of the grievance. The member may be given limited support in order to allow the member to pursue his/her grievance on his/her own at his/her own expense.

## How does a member file a classification grievance?

Assuming a member has already undergone the job content grievance process already or that your work description is in fact accurate, here are your options:

1. The member may file a classification grievance in parallel with his/her job content grievance but hold the classification in abeyance pending the conclusion of the job content grievance;<
  - a. Proposed wording for Classification Grievances is as follows:

“I grieve that my position is incorrectly classified.  
Corrective Action requested: That my position be reclassified to a higher level effective \_\_\_\_\_.”
2. The member may consider filing an acting pay grievance in the event he/she is unsuccessful with the classification grievance, but hold the acting pay grievance in abeyance until both the job content and classification grievances are resolved. An acting pay grievance is a governed by the grievance procedure set out in the collective agreement. You may file these at any time but note that any decision relating to an acting pay grievance will only have retroactive effect to a maximum of 25 working days preceding the date on which the acting grievance was filed.

Pursuant to Treasury Board's [Classification Grievance Policy](#), you have 35 calendar days from the date of the notice of classification decision to file your grievance. The AJC recommends that you file your grievance with your direct supervisor. Section 70 of the [Public Service Labour Relations Board Regulations](#) require that:

“your immediate supervisor or the local officer-in-charge identified under subsection 65(1) shall

(a) deliver to the grievor or to the grievor's representative, if any, a receipt stating the date on which the individual grievance was received by the immediate supervisor or the local officer-in-charge; and

(b) forward the individual grievance to the person whose decision constitutes the appropriate level of the individual grievance process.”

For more information on the individual grievance process governing classification, you may refer to the [Public Service Labour Relations Board Regulations](#).

Proposed wording for Classification Grievances is as follows:

“I grieve that my position is incorrectly classified.

Corrective Action requested: That my position be reclassified to a higher level effective \_\_\_\_\_.”

## What must a member do to request AJC assistance on a job classification grievance?

1. The following information must be provided to the AJC Labour Relations Officer that has been assigned to the member:
  - a. A completed [Incident Form](#);
  - b. A copy of the current work description;
  - c. If applicable, the classification decision including
    - i. Group and level;
    - ii. Point rating by factor (if applicable);
    - iii. Rationale (if applicable);
    - iv. Effective date of classification.
  - d. Organizational chart relevant to the position in question;
  - e. Documentation being relied upon for comparison purposes.
2. A Labour Relations Officer will then conduct an initial assessment and provide advice to the member, which may include, filing a grievance on his/her own pending a decision from the Representations Committee regarding the provision of representation services, in order to preserve the member's classification grievance rights.
3. Should, following the advice received, the member wish to pursue or continue to pursue a request for representation services, the Labour Relations Officer will submit your request including your list of representations to the Representation Committee for a decision.
4. A decision with reasons will then be issued. For more information on the factors considered by the Representations Committee, you may also refer to the [Representation Services Policy](#).
5. If the Representations Committee, finds following an analysis that there are no realistic arguments to support an upward classification, the Representations Committee will likely not lend representation support. In such cases, the member may represent himself/herself before the Departmental Classification Grievance Committee or seek alternative representation services at his/her own expense in accordance with the [Classification Grievance Policy](#).

## Acting Pay

Article 15.05 of the collective agreement states:

### “15.05 Acting Pay

- (a) When a lawyer is required by the Employer to substantially perform the duties of a higher classification level on an acting basis for a period of at least six (6) consecutive working days, the lawyer shall be paid acting pay calculated from the date on which the lawyer commenced to act as if the lawyer had been appointed to that higher classification level or managerial position for the period in which the lawyer acts.

- (b) When a day designated as a paid holiday occurs during the qualifying period the holiday shall be considered as a day worked for purposes of the qualifying period.”

## **What must a member do to request assistance on an acting pay grievance?**

1. The member should duly complete the attached [Treasury Board Form](#).
  - a. Box B should include the following text:

“I grieve that the employer is not paying me appropriately for the duties I am performing. I am asked to perform the duties of a higher position. As a result, the employer is not abiding by the provisions of the Pay Administration article of my collective agreement
  - b. Box C should include the date on which you received you started to perform duties entitling you to acting pay.
  - c. Box D should include the following as corrective action:

“That I be paid in accordance with my collective agreement for the performance of the duties I am required to perform, retroactive to the date on which performance of these duties began (specify date)”.
2. This grievance should be filed with your immediate supervisor with the assistance of the AJC, who shall be required to provide you with conditional support to preserve your timelines, pending a review of the Representations Committee.
3. This grievance may be filed in parallel with your classification grievance but held in abeyance on consent pending final resolution of the job content and classification grievances, as the case may be.

## **What must a member do to request AJC assistance on an acting pay grievance?**

1. The following information must be provided to the AJC Labour Relations Officer that has been assigned to the member:
  - a. A completed [Incident Form](#)
  - b. A former statement of duties
  - c. A final statement of duties signed by the employer and the member
  - d. Classification evaluation with the effective date
  - e. Statement and examples from the member to support when he/she began to perform the duties in the amended/final statement of duties and evidence of such duties being performed substantially and required by management.
2. A Labour Relations Officer will then conduct an initial assessment and provide advice to the member, which may include, filing a grievance on his/her own with conditional support by the AJC for the purposes of meeting the requirements of Article 24.08(d) of the collective agreement, pending a decision from the Representations Committee regarding the provision of representation services, in order to preserve the member’s grievance rights.

3. Should, following the advice received, the member wish to pursue or continue to pursue a request for representation services, the Labour Relations Officer will submit your request including your documentation to the Representation Committee for a decision.
4. A decision with reasons will then be issued. For more information on the factors considered by the Representations Committee, you may refer to the [Representation Services Policy](#).
6. If the Representations Committee concludes that that the chances of success are low, the Representations Committee may not support the member's request. Should this occur, the member may be asked to withdraw his/her grievance. Alternatively, the AJC may formally withdraw its support of the grievance. The member may be given limited support in order to allow the member to pursue his/her grievance on his/her own at his/her own expense.
5. The member may be given the option to pursue his/her grievance on his/her own at his/her own expense.

Other Reference Materials Not Referenced Above:

[Changes to the timeframes for presenting and responding to classification grievances](#)

[Reminder – Classification Grievance Resolution Process](#)

[Retroactive Reclassification and Appointment](#)

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<sup>i</sup> [Parker et al. v. Treasury Board \(Department of Human Resources and Skills Development\), 2009 PSLRB 109](#) (para. 71)