

# **AJC POLICY GOVERNING UNION REPRESENTATION SERVICES**

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## **Union Representation**

The Association has the authority to provide representation services to members who may be subjected to discipline by the employer or other working conditions that give rise to a grievance. The Association's Representation Committee makes the determination of whether or not to offer representation services, as is explained in the next section.

## **The Role of the Representations Committee**

The Representations Committee is comprised of the President and the Vice-President Labour Relations. In exceptional circumstances, the President or Vice-President Labour Relations may, in the absence of the other, authorize the filing of a grievance for the purpose of ensuring that a member's rights are not extinguished by any time limitations. Decisions of the Representations Committee may be communicated to the members by an AJC staff member.

The Representations Committee is responsible for determining whether or not to approve the filing of an individual, group or policy **grievance** with the Employer and thereafter, determining where a grievance has been filed, whether or not to authorize further pursuit of the matter to adjudication before the Public Service Labour Relations Board. These decisions take a number of factors into consideration, such as but not limited to:

- the merits of the case including timeliness;
- the appropriateness of the grievance forum;
- the particular circumstances of the grievor;
- the potential overall benefit to the membership;
- the timeliness of the matter;
- the advice of counsel;

- whether any reasonable offers to settle were tabled and refused by the member: and
- potential conflicts of interest that may exist or arise.

There may be times where a member's **other possible recourses** either co-exist with the grievance process or fall outside the scope of the grievance process ("venue"). Such venues may include but are not be limited to informal conflict resolution, mediation, complaints, investigations, or proceedings before the Canadian Human Rights Tribunal, the Public Service Staffing Tribunal, the Federal Courts, the Provincial Courts, or such other tribunals or boards, save and except the Public Service Labour Relations Board. In such instances, the Representations Committee will make a determination on whether or not to endorse another venue in accordance with any parameters that may be imposed by Governing Council or Executive Committee resolution. In determining whether or not to pursue a matter in a given venue, members of the Representations Committee will take a number of factors into consideration, such as but not limited to:

- the merits of the grievance process, if available;
- the costs associated with the pursuit of such venue;
- the available resources;
- the particular circumstances of the member;
- the potential overall benefit to the membership;
- potential conflicts of interest that may exist or arise;
- whether timelines were met;
- the advice of counsel;
- whether any reasonable offers to settle were tabled and refused by the member; and
- whether the union provided representation during the initial proceedings..

The Representations Committee may at any time reconsider the decision to offer representation services if, among other things, there is a change in the merits of the case, the member has been presented with a reasonable offer of settlement by the employer, or if the resources allocated have been exhausted. In such cases, the member shall be provided with reasonable notice of AJC's intention to withdraw representation services.

**Where the Representations Committee decides not to approve representation services**, the member is free to pursue the individual grievance process, adjudication, and/or such other procedures , at his or her own expense, subject to sections [208\(4\)](#) and [209\(2\)](#) of the *Public Service Labour Relations Act* ("PSLRA"), as amended from time to time.

A member may request that a decision of the Representations Committee be reconsidered in the following instances:

1. Where despite the escalation of a grievance throughout the grievance process, the Representations Committee has decided not to refer the matter to adjudication; or
2. Where the member identifies a material change in facts from those relied upon in the Representations Committee's original decision.

In any of these instances, such member has a right to request that such Representation Committee's decision be reviewed. Such requests however must be forwarded within 5 calendar days from the date he or she was advised of the Representations Committee's decision by submitting his or her objection to the President c/o [admin@ajc-ajj.com](mailto:admin@ajc-ajj.com) who will, in consultation with the Executive Committee, reconsider and render a final decision.

**Where the member has been offered representation services** in connection with an individual grievance or other venue but the member has refused such services, the member shall be deemed to have forfeited his or her right to union representation in connection with such grievance or venue. The Association shall not thereafter reconsider the decision to offer representation services unless exceptional circumstances arise.

## **Communications with Union Representatives and the Use, Collection and Disclosure of Personal Information**

Communications between a member and an AJC union representative are not solicitor-client privileged. The advice provided to members by AJC union representatives, including staff Labour Relations Officers or Labour Relations Agents, constitutes advice of the union and is generally not protected by privilege.

Having said this, the AJC recognizes the sensitive nature of certain exchanges with its members. Collection, use and disclosure of personal information may however be required for the purposes of defending and promoting a member's interests and meeting the union's statutory duty of fair representation. In fact, collection, use and disclosure may occur in one or more of the following scenarios:

- the initiation or conduct of investigations,
- the conduct of inquiries,
- the representation of one or more members,
- the union representatives' reporting obligations to the Executive Committee members,
- the defence or promotion of AJC's interests or those of its members;
- the need for instructions from members of the Representations Committee or Executive Committee, as appropriate; and
- such other scenarios that promote the interests of the AJC and/or its members.

To this end, the AJC will use reasonable efforts to limit the flow of information on a need-to-know basis and will ensure that third party service providers, including Labour Relations Agents, are contractually bound by the same AJC commitment. Members engaging the services of the AJC are therefore deemed to have consented to the terms and conditions set out herein with the exception of medical information, which will notwithstanding anything to the contrary contained herein, require your express written consent before disclosure by the AJC to a third party.

Should a member have a concern regarding the collection, use or disclosure of his or her personal information, he or she should raise such concern with the union representative that has been assigned

to him or her. Should the member's concerns not be addressed to the member's satisfaction, he or she may direct his or her inquiry to [admin@ajc-ajj.com](mailto:admin@ajc-ajj.com).

## Union Representatives

Union representatives of the Association may include Governing Council members, the Association's Labour Relations Officers or outside Labour Relations Agents. Exceptionally, outside counsel may be retained by the Association for the purposes of assisting it in the delivery of its representation services.

## The Representation Process - Summary

In the event a member requires assistance from AJC:

1. The member should contact the Governing Council member in his/her region.
2. The GC member can informally assist the member locally for simple files, or direct him to AJC Head Office when the file is more involved/complex.
3. AJC Head Office will direct the member to the Representation Process and Incident Form on the AJC website (if not already consulted)
4. The member will fill the [Incident Form](#) and send it to AJC Head Office at [admin@ajc-ajj.com](mailto:admin@ajc-ajj.com) .
5. The Labour Relations Officer will prioritize inquiries based on the information provided on the Incident Form.
6. The Labour Relations Officer will assess the file and advise the member as to possible options.
7. Where necessary, the Labour Relations Officer will seek direction from the Representation Committee.
8. If applicable, the Labour Relations Officer will communicate the decision to the requesting member of either representing or declining representation and the basis of such decision.
9. Should the member be represented by AJC, the Labour Relations Officer will take appropriate action based on the nature of the file, including the drafting and filing of the grievance.