

SECTION 7

EMPLOYEE RELATIONS

7.05 LABOUR / MANAGEMENT RELATIONS

AUTHORITY: COLLECTIVE AGREEMENT BETWEEN THE PROVINCE
OF PRINCE EDWARD ISLAND AND THE UNION OF
PUBLIC SECTOR EMPLOYEES
CIVIL SERVICE ACT AND REGULATIONS

ADMINISTRATION: P.E.I. PUBLIC SERVICE COMMISSION
GOVERNMENT DEPARTMENTS / AGENCIES

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1. PURPOSE

1.01 To discuss issues related to the labour/management relationship.

2. APPLICATION

2.01 This applies to the Civil Service.

3. POLICY

3.01 (a) In a unionized work environment, the collective agreement and its contractual nature and the role of management and the union in the day to day administration of the workplace and the agreement must be understood.

(b) To be effective, it's essential for the Employer to know when and how to communicate with union representatives and how to ensure the communication is productive, even in the face of conflict.

3.02 Union vs. Non-union Workplaces

a) In a unionized work environment, a written agreement (ie. the collective agreement) outlines the terms and conditions of employment for all employees in the bargaining unit. However, the employer can still make policies or rules on issues which may be a term or condition of employment, provided the policy or rule does not conflict with anything in the collective agreement or violate any rights protected by legislation.(ie. Maternity benefits, WCB or Human Rights)

b) In the civil service, some terms and conditions of employment are found in the *Civil Service Act* and the Regulations to the *Act*. Some examples of conditions of employment found in the Regulations include classification appeal (Part V) and disciplinary measures (Part IX).

c) Another obvious difference between union and non-union workplaces is the presence of the union. The union has representatives at worksites called stewards. It also has elected officials and full time paid staff.

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- d) In unionized workplaces, regardless of who the actual individuals are occupying positions as management, union or employees, the relationship created by virtue of the collective agreement continues.

3.03 **The Collective Agreement and Related Legislation**

- a) A collective agreement is an employment contract. The parties are the Employer and the Union. The Union is the “bargaining agent” for the employees who are collectively the “bargaining unit”. By legislation, a union who can demonstrate it represents a majority of employees of an employer is entitled to negotiate the terms and conditions of employment (the collective agreement) of the employees in the bargaining unit.
- (b) Some legislative and collective agreement provisions you should be aware of include the following:

Civil Service Act

Section 1

- “Employer” in relation to consultation and negotiation, means the Treasury Board or such other body as the Lieutenant Governor in Council may designate and;
In relation to a department or agency, means the department head or such other official as the department head may designate
- “Union” means the Prince Edward Island Union of Public Sector Employees

Section 43

- (1) The Employer shall consult and negotiate with the Union subject to subsection (2) on all such matters as may be prescribed by regulation.
- (2) The Union shall be the authorized representative of all persons employed pursuant to this Act for the purpose of consulting and negotiating with the employer, other than:

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- (a) an employee of the executive division;
- (b) an employee of the Executive Council office, of the Commission or of Treasury Board; who was not transferred to the Executive Council or Treasury Board under subsection 12(2) by Treasury Board on April 11, 2012.
- (c) an employee of the Department of Justice and Public Safety who is required to carry out the provisions of legislation respecting conciliation or who provides advice with respect thereto to the department head;
- (d) a solicitor;
- (e) a contract employee;
- (f) a student employee;
- (g) an employee who exercises managerial functions or who is employed in a confidential capacity in relation to labour relations.

Civil Service Act Regulations

Section 66 - Part XV Consultation and Negotiation Procedures

- (a) “agreement” means an agreement in writing between the authorized representative and Her Majesty the Queen in right of the Province of Prince Edward Island stipulating the term of the Agreement and containing terms and conditions of employment including rates of salary and wages for employees and may include provisions for other benefits;
- (b) “Consultation and negotiation” means
 - (i) in case of consultation:
 - (a) an open exchange of information for the purpose of examining a problem, clarifying a situation, or improving the relationship between parties,
 - (b) discussion, study, and research of problems of appropriate decision-making authorities,
 - (ii) in the case of negotiation:

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- (a) discussing in good faith,
 - (b) bargaining collectively,
 - (c) conciliation as prescribed in sections 77 to 79,
 - (d) arbitration as prescribed in sections 80 to 87;
- (c) “parties” means those persons who may negotiate and conclude an agreement.

Section 67

- (1) The Union will continue to be the authorized representative until it is replaced in accordance with this section.

Section 71

- (1) The parties to the negotiation of an agreement shall be the authorized representative and Her Majesty the Queen in right of the Province of Prince Edward Island.
- (2) Her Majesty the Queen in right of the Province of Prince Edward Island shall be represented by such persons as may be designated by the Treasury Board.

Collective Agreement

Agreement Reopener

This Agreement may be amended by mutual consent. If either party wishes to amend or vary this Agreement, it shall give to the other party notice of any amendment proposed and the parties shall meet and discuss such proposal not later than one (1) calendar month after receipt of such notice.

Management Rights

Management retains all rights except those given up in the collective agreement.

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All the functions, rights, powers and authority which are not specifically abridged, delegated or modified by this Agreement are recognized by the Union as being retained by the Employer and, without limiting the generality of the foregoing, include the following:

- (a) to manage and direct employees,
- (b) to hire, promote, transfer, assign, retain employees, and to establish positions,
- (c) to suspend, demote, discharge, or take other proper disciplinary action,
- (d) to relieve employees from duties because of lack of work or other proper reasons,
- (e) to maintain the efficiency of operations, and to make rules and regulations
- (f) to be observed by employees, to determine the methods, means and personnel by which such operations are to be conducted,
- (g) to evaluate jobs, classify positions, specify the employees' duties,
- (h) to take whatever action may be necessary to carry on operations in situations of emergency.

These rights shall not be exercised in a manner inconsistent with the expressed provisions of this Agreement.

Key Union Contacts

(a) Shop Steward/Local Representative

The Steward or Local Rep is an employee who is also an elected union official who represents the union at the workplace level. The role of the Steward is to investigate concerns, represent member interests and protect member rights. There are many union Stewards, although not necessarily one in every work site.

The Steward is the key union contact at the worksite for most labour relations matters.

(b) Business Representatives/Union Staff

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The union has paid staff to assist union members and Stewards with issues that arise in the day to day administration of the collective agreement in the workplace. These individuals also assist employees with grievances and conduct negotiations on behalf of the union. Whenever a grievance or issue which is not readily resolved at the worksite arises, union staff become involved.

(c) Elected Officers of the Union

The union has its own constitution and by-laws which require it to hold elections every two years for various executive positions. Of these, only the president is a full time position.

Generally, elected union officials are not involved in the day to day administration of the collective agreement and do not participate directly in grievances, adjudications or negotiations.

An employee who is also a union representative may seek leaves of absence from time to time in order to fulfill the duties of the office they hold. These individuals must seek the leave and management retains discretion to grant or withhold such leaves in certain circumstances.

Key Management Resources

(a) HR Managers

Each department's HR Manager is aware of all issues in the department involving employees and to be effective must be kept informed by supervisors and managers of what's going on. As well, the HR Managers across government meet regularly as a group led by the Director of Human Resource Management and Labour Relations. This presents the opportunity to consult within that peer group (Labour Relation Consultant and Director) on issues which may be of concern across departmental lines.

The departmental HR Manager is also in a position to keep senior departmental management updated on labour relations issues within the department.

There are some matters, such as misconduct warranting significant discipline, on which it is necessary to consult with the Director of Human Resource Management and Labour Relations, Labour Relation Consultant, and HR Management.

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(b) Public Service Commission

Beyond the departmental level, there is expertise available from the Labour Relations Section of the Commission. Staff of that Section hold the employer's corporate memory in labour relations matters and are experienced in dealing directly with the union on a variety of issues.

If you and your HR Manager are uncertain about how to proceed, consult with one of the staff of the Section before taking action.

Communication With The Union

(a) Joint Consultation

The Employer agrees to continue consulting with the Union on all matters which affect or may affect the terms and conditions of employment of employees.

The employer and the union have over time developed an understanding that this provision applies only in the case of a major change which would have a significant impact on a number of employees.

When considering significant change which might require joint consultation, contact your HR Manager who will contact the Labour Relations Section of the Public Service Commission for guidance on how to proceed.

(b) Wise to Consult

Even though there may not be an obligation to consult with the union on a certain matter, it may still be wise to do so. Putting the union in the picture gives them the opportunity to become informed on an issue, ask questions and let you know what kinds of problems may be anticipated. Consultation with the union acts as a check on management to ensure that employees will be kept informed of upcoming changes.

Effective consultation with the union on matters which are of concern to them and their members is also a way to build trust, show respect and generally keep lines of communication open. It is not about seeking permission.