

1. Introduction

This manual contains information about the procedures/processes for arbitration cases in the Colleges of Applied Arts and Technology, including the steps involved in processing grievances arising from the provisions of the two Collective Agreements (Academic and Support Bargaining Units), beginning with the referral of the complaint to arbitration and ending with the Arbitrator's award.

2. Regular Arbitration Process

2.1 Types of Grievances

The types of grievances are described in Article 18 of the Support Staff Collective Agreement and Article 32 of the Academic Collective Agreement.

2.2 How a Grievance Is Referred

A grievance is referred to arbitration in the following manner:

- a) The Local Union advises the College that they are referring the grievance to arbitration.
- b) The Local Union advises OPSEU that they should refer the grievance to arbitration.
- c) OPSEU forwards written notice to the College and the College Compensation and Appointments Council (Council) that the grievance is referred to arbitration.
- d) Scheduling of the grievance is arranged through the Joint Grievance Scheduling Committee (refer to section 2.3 Scheduling of Arbitrations).

2.3 Scheduling of Arbitrations

The Joint Grievance Scheduling Committee, consisting of Union and Management representatives, meets monthly to schedule the arbitration hearings for the upcoming two months. Details of the Committee's mandate and membership are found in Section 5.2 Joint Grievance Scheduling Committee.

The following outlines the "blind" scheduling process that the parties follow:

- a) The Council obtains a maximum of two dates per month from the Arbitrators for the year.
- b) Two (2) days before the monthly meeting of the Joint Grievance Scheduling Committee, the Council provides OPSEU with the hearing dates for the scheduling period. The names of the Arbitrators are not revealed.

- c) At the Joint Grievance Scheduling Committee meeting, the grievances are scheduled as follows:
- Management identifies the hearing date, the bargaining unit that the Arbitrator can hear cases, and specific information regarding the Arbitrator, such as bilingual capabilities;
 - based on the Union's determined priority, the Union provides the detail of the case, such as the OPSEU Number, grievor's name and the nature of the grievance;
 - Management then releases the Arbitrator's name.
- e) In scheduling grievances to available dates, the Committee considers special cases that may be eligible for "fast track" scheduling, such as dismissal and layoff. Care is also taken to ensure that bilingual Arbitrators are assigned as necessary.

From this meeting the Tentative Schedule is produced.

Tentative Scheduling Period

Following the Joint Grievance Scheduling Committee meeting:

- a) The Council distributes the Tentative Schedule to the Colleges; and
- b) OPSEU distributes the Tentative Schedule to the Local Unions.

The Tentative Schedule contains only the date and details of the grievance. The Arbitrator's name is not revealed to the College nor the Local Union. The Local Union and the College are given ten (10) days to notify OPSEU and the Council if the date assigned is (un)satisfactory.

Both the Academic and Support Staff Collective Agreements have provisions stating that either party can only turn a hearing date down twice. This means:

- either party can turn down a tentative arbitration date for the same grievance twice;
- the next time the grievance is scheduled, the date and Arbitrator are "locked in". If, one of the parties has a conflict with this date, they will need to seek an adjournment directly from the Arbitrator.

Once the "Tentative Schedule" is distributed, the Local Union and the College shall notify OPSEU and the Council, respectively:

- i) whether they agree to the combination of grievances (if applicable); and
- ii) whether the tentative date is accepted or declined.

If there is no agreement about the combination only one grievance will be scheduled. The Local Union shall identify a "priority" grievance and notify the College, OPSEU and the Council.

If the tentative date is accepted by the parties, but the combination is not, then JGSC agrees that only the "priority" grievance will be assigned by it to that date.

In this circumstance, if one of the local parties wishes to argue before the Arbitrator that the "priority" grievance should be combined with another grievance(s), then that party must give the Arbitrator and the other party advance written notice of its intent (if possible, a minimum of two (2) weeks). The notice must indicate the grievance(s) the party is seeking to have combined.

Scheduling of Cases on Open Dates

The local parties should try to reschedule any grievances that they could not accommodate on the tentative schedule, by using the "open dates". If this does not occur, the grievance is referred to the Joint Grievance Scheduling Committee for rescheduling.

The College and Local Union must agree on rescheduling a grievance or scheduling a new grievance on an open date. The Council and OPSEU assign the dates on a first come first served basis.

Once the tentative scheduling period is closed, the Open Dates period has passed. The Council and OPSEU confirm the grievances assigned to an open date. The Council returns to the Arbitrators any open dates that have not been used.

Confirmed Schedule

Following the expiry of the Tentative Scheduling period, the Council forwards to the College the Confirmed Schedule (showing the Arbitrators' names).

The "Confirmed Schedule" is issued showing all grievances that have been scheduled and the Arbitrator who has been assigned.

OPSEU and the Council each assign their respective Nominees to arbitration hearings that require a tripartite board.

2.4 Assignment of Nominees

Nominees, unless the parties have agreed to use a sole Arbitrator, are assigned to arbitration cases at the close of the Tentative Schedule deadline.

The Council is responsible for assigning the College Nominees and confirms, in writing, the date and details of the grievance with the College, Arbitrator, and College Nominee.

OPSEU is responsible for appointing the Union Nominees and informing the Arbitrator and Local

Union.

Both the Academic and Support Staff Collective Agreements have provisions to allow for a sole Arbitrator if both parties agree.

2.5 Withdrawn, Cancellation or Adjournment

Once an arbitration date has been assigned and the grievance is either withdrawn or settled, the local parties are encouraged to use this date for a replacement case. If this is not possible, then the hearing date must be cancelled.

Should it be necessary to **cancel** an arbitration hearing, the College must notify the Council. The Local Union must notify OPSEU of the cancellation.

The Council will verify the cancellation with OPSEU and then notify the Arbitrator, the College Nominee of the cancellation. It is OPSEU's responsibility to notify the Union Nominee of the cancellation. The grievor is notified by the Local Union. Late cancellations may result in cancellation fees. The payment of these fees is arranged by the local parties.

In case of **adjournment**, it is the responsibility of the **local parties to reschedule** the case with the same Arbitrator unless otherwise agreed.

3. Joint Grievance Scheduling Committee

Terms of Reference

Purpose

The Joint Grievance Scheduling Committee (the "Committee") has been created under the Collective Agreements to facilitate communications between Management and the Union at the provincial level, to schedule grievances referred to arbitration, and address grievance scheduling issues. The Academic and Support Staff Collective agreements state that Arbitrators shall be assigned either by agreement, or failing agreement, by lot.

These Terms of Reference have been established without precedence or prejudice and is not intended to supercede the Collective Agreement.

1. Duties and Responsibilities

The Joint Grievance Scheduling Committee is responsible for:

- a) the fair, equitable, and expeditious method of scheduling arbitration hearings;
- b) discussion and possible resolution of issues that arise with regard to scheduling grievances;
- c) initiatives that improve the grievance scheduling process;
- d) ongoing review of approved Arbitrator lists and adjustments as necessary within the

- Collective Agreement mandates;
- e) any other matters that pertain to scheduling of grievances within the college system.

2. Committee Membership

Management representatives:

- one (1) Senior Consultant from the Council, is Co-Chair of the Committee;
- three (3) representatives of the Colleges' Human Resource Directors;
- one (1) Council resource staff.

Union representatives:

- three (3) representatives from the Support Staff Bargaining Unit;
- three (3) representatives from the Academic Staff Bargaining Unit;
- one or two (1 - 2) staff members from OPSEU Grievance Office.

The Union Co-Chair is selected by members of the Union.

3. Meetings

Meetings have been held monthly, or as otherwise arranged by the Committee. The Committee has established the following pattern of meeting dates:

<u>Month</u>	<u>Scheduling Period</u>
September	December, January
October	January, February
November	February, March
December	March, April
January	April, May
February	May, June
March	June, September
April	September, October
May	October, November
June	November, December

The OPSEU representatives establish a "fast track" of chronological priority of all outstanding referrals to arbitration. "Fast track" means that a grievance would receive scheduling preference to the chronology of filing when a permanent interruption in earnings has or may occur for the grievor. Management reserves the right to establish an equal number of "fast track" grievances.

The Committee has agreed in principle to avoid scheduling more than one (1) grievance per week for an individual College.

If the schedule is confirmed and dates are not available for a newly identified "fast track" then either additional dates are obtained from Arbitrators or bumping of a confirmed case might become necessary by agreement of the parties.

4. Arbitrators

4.1 List of Approved Arbitrators

The list of approved arbitrators is contained in Articles 18.4.3.1 and 18.8.2 of the Support Staff Collective Agreement and Article 32.04 A of the Academic Collective Agreement.

4.2 Appointment

The parties negotiate the lists of approved arbitrators during the collective bargaining process. The Joint Grievance Scheduling Committee may agree to a Supplementary List of persons to address specific concerns raised by the parties. This Supplementary List is active for the term of the Collective Agreements, unless indicated otherwise.

4.3 Orientation of Arbitrators for Classification Grievances

All Arbitrators appointed to hear Support Staff classification complaints, either expedited or full board, shall undergo an orientation session on the Job Evaluation System every two (2) years. This session is jointly developed and presented by the Support Staff Joint Classification Committee, as outlined in Article 18.4.3.1 of the Support Staff Collective Agreement.

4.4 Role and Responsibility

The Council contacts the Arbitrator for hearing dates to be used in the "blind" scheduling process.

The Arbitrator must notify the Council of adjournment or cancellations of cases assigned to the initial hearing date. The Council is not responsible for scheduling continuation hearings. The Arbitrator is required to send copies of the award to the following:

- a) the College's Director of Human Resources;
- b) the Council;
- c) OPSEU Grievance Office;
- d) Legal Counsel(s) representing the parties.

The College and OPSEU are responsible for any costs incurred. However, the local parties sometimes make individual arrangements with respect to remuneration and expenses of the Arbitrator.