



## **BY-LAW N° 3**

### **CONCERNING LEGAL SERVICES**

**February 2019**

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## **BY-LAW N° 3**

### **BY-LAWS CONCERNING LEGAL SERVICES**

#### **ARTICLE 1 - GENERAL PRINCIPLES**

- 1.1** When a disagreement arises between a support staff member and the employer or between the union and the employer, related to the application of the collective agreement or social or labor laws, the union must carry out an investigation and construct a union file using the form furnished by the Federation (see Appendix).

The union file shall contain all documents related to the disagreement, such as: all letters exchanged, Labour Relations Committee (L.R.C.) minutes where the disagreement was discussed, all documents which could be used to justify the claim (proof of scholarship and experience, termination and hiring contracts, job descriptions, etc.).

- 1.2** In its preliminary attempts to settle the litigation, the union shall have access to tools (interpretation guides, summaries of jurisprudence, etc.) and human resources.
- 1.3** The Union must respect the established procedures for scheduling arbitration hearings.

#### **ARTICLE 2 - PROCÉDURES**

##### **2.1 Grievances**

When a union wants a grievance to be scheduled for arbitration hearing:

##### **Unions governed by Bill 37**

The union shall inform the Federation and send it, within the prescribed time limits, the duly filled out grievance investigation form as well as copies of all documents related to the case.

##### **Unions not governed by Bill 37**

##### **UQAT, Polytechnique, CEMEQ, SDM**

The union must communicate with the Federation's resource person before a grievance arbitrator is appointed in order to obtain this person's opinion or a list of arbitrators, and must send the Federation, within the prescribed time limits, the duly filled out grievance investigation form as well as copies of all documents related to the case.

## **Ahuntsic Cafeteria, SIVET, SRIEQ, UQO**

The union must choose an arbitrator from the list found in the collective agreement and must send the Federation, within the prescribed time limits, the duly filled out grievance investigation form as well as copies of all documents related to the case.

### **2.2 Labour Code**

For complaints filed by virtue of articles 39, 45 and 46 of the Labour Code, the union must inform the Federation of the legal action and send it the duly filled out grievance investigation form as well as copies of all documents related to the case as soon as it files the complaint.

### **2.3 Work Accidents**

For complaints filed by virtue of article 359 of the Act Respecting Industrial Accidents and Occupational Diseases (LATMP), the union must inform the Federation of the legal action and send it the duly filled out grievance investigation form as well as copies of all documents related to the case as soon as it files the complaint.

## **ARTICLE 3 - THE LEGAL SERVICES COMMITTEE**

### **3.1 Composition**

The Committee shall be composed of:

- two members of the Executive Committee;
- two Federation labour relations advisors.

### **3.2 Role**

The role of the Committee shall be to:

- analyze all legal actions taken by virtue of the collective agreement, the Labour Code and other labour or social laws, submitted by the Unions;
- determine the priority for scheduling grievances for arbitration hearings;
- assign a lawyer to the case;
- see to the appointment of an assessor, if necessary;
- analyze all final or intermediate rulings or decisions of legal actions submitted to tribunals, and formulate recommendations to the union concerning extraordinary measures which may be taken with regards to the tribunal's ruling;
- analyze requests for legal opinions and assess their relevance.

### **3.3 Operating Methods**

If possible, the Committee shall meet at least once per month during the period of September to May.

The Committee shall be responsible for own internal operations and must make known the decisions of each of its meetings.

The Committee shall report its activities to the Executive Committee.

### **3.4 Procedures**

When the Committee decides to recommend that a grievance not be submitted to an arbitration hearing or a legal action to a tribunal, it must justify its decision in writing to the union concerned, indicating the existence and operations of an appeal mechanism at the Federation.

## **ARTICLE 4 - RECOMMENDATIONS BY THE LEGAL SERVICES COMMITTEE TO UPHOLD A LEGAL ACTION**

- 4.1** When the Committee decides to uphold a legal action, it shall inform the union concerned.
- 4.2** The union shall meet with the lawyer assigned to the case to prepare for the hearing. A list of the people who should attend this meeting shall be determined by the union upon agreement with person responsible for pleading the legal action.
- 4.3** The people who are required to attend as witnesses or resource people shall be convened to attend the meeting by the lawyer. The Federation shall pay the expenses of an expert witness when requested by the lawyer.
- 4.4** The union shall be informed of any decision which has a bearing on the case before the tribunals (postponement, reopening of an investigation, etc.).
- 4.5** An out-of-court settlement could be reached as long as it is within the mandate given to the lawyer assigned to the case by the union involved in the litigation.
- 4.6** Once a legal action is submitted to a tribunal, only the union has the right to withdraw from this legal action. The Federation may make recommendations.
- 4.7** When a decision is made in the union's favor, its application must be implemented by the union. The union may, if it wishes, avail itself of the services of a Federation resource person.

## **ARTICLE 5 - APPEALS COMMITTEE**

When the Legal Services Committee recommends against a legal recourse being upheld, the union can file an appeal of this decision with the Appeals Committee.

**5.1** The Appeals Committee is formed by the Federal Council and is composed of four (4) people and one substitute:

- the Executive Committee member responsible for legal services;
- three (3) people elected by the Federal Council.
- one substitute elected by the Federal Council, which must act if any member of the Appeals Committee is a delegate of the union filing the appeal.

**5.2** When a decision of the Legal Services Committee is appealed, the union shall be convened to a meeting with the Appeals Committee. Notice of this meeting must be sent to the union at least five days before the meeting is held.

At this meeting, the person or persons who represent the union and the Executive Committee member responsible for legal services have the right to speak but not the right to vote.

**5.3** If the Appeals Committee decides to uphold the recommendation of the Legal Committee, the union can choose to either withdraw from the legal action or maintain it.

**5.4** If the union decides to maintain the legal action, the hearing will be at its own expense and the case will be referred to the Centrale's legal services. If the union wins the grievance, the Federation will reimburse the union its legal services expenses.

## **ARTICLE 6 - ELIGIBLE EXPENSES**

**6.1 Eligible Expenses:**

- the cost of arbitration fees for grievances lost by unions governed by Bill 37;
- the institutional union's share of arbitration costs;
- the costs of assessors;
- costs incurred by an expert witness;
- costs of a medical expert;
- postponement fees.

**6.2** The following expenses must be authorized by the Executive Committee of the Federation in order to be covered by the legal services budget:

- the costs of assessors;
- costs incurred by an expert witness;
- costs of a medical expert.