

Question: I think my job description is incomplete or my classification is incorrect; what should I do?

Answer:

Background

First of all, the employer has the exclusive right to organize the workplace and to define the jobs and duties to be done in that work place.

For the public service, when they do so, they have been provided delegated authority by the Treasury Board (TBS) to classify those jobs in accordance with the Treasury Board's classification system. Under public service labour law, employees and their union have no authority to negotiate the terms and conditions of classification; however, we certainly can hold the employer accountable for following their system, and we have the right to file grievances to insure that employer's process is followed.

In the private sector, at NAV CANADA, the employer must follow the classification and staffing requirements as agreed to and documented in the collective agreement. Deviations from required criteria and processes may be grieved and may be subject to arbitration.

In our collective agreements, we have a provision that requires certain information to be provided to employees. Article 33.01 in the collective agreement with TBS, and Article 40.03 in the collective agreement with NAV CANADA, requires the employer to insure that all job descriptions are a "complete and current" statement of duties and responsibilities, and that the information relating to the classification determination and the organization of the workplace are provided to each employee. While this information should logically be provided to each employee without special request, these provisions allows our members to correct a situation, by written request and ultimately by way of a grievance, when this information is not provided or the information is lacking or inaccurate in some way.

Process overview

When the employer communicates to employees that the organization is changing or new work descriptions are provided to employees, the first step for any employee is to make sure that they have been provided with the information required by Article 33.01/40.03. The language in these provisions reflects the two elements of the process: job content and classification.

The first step is to address job content by making sure that the work description is "complete and current", in that it contains all the duties and responsibilities of the position and those duties and responsibilities have been appropriately described. Any change to the work description by the employer should trigger a new

classification analysis and result in a new work description, which will restart the process.

The final step after all the required information is provided and the work description is “complete and current” is the opportunity to grieve the employer’s classification decision. In the public service, this process is slightly different in that this grievance does not derive authority from the collective agreement and therefore cannot be challenged before the Public Service Labour Relations Board (PSLRB). This means that public service classification grievances are ultimately an internal process to the department and the ability to challenge a departmental decision is potentially more complex. That said, the key to the exercise is in getting the job content correct by way of Art 33.01 and establishing a complete and current description of duties and responsibilities. In the private sector, the classification decision may be grieved in accordance with the collective agreement and could potentially be determined by an arbitrator.

Importance of Initial Information Request

The provision of the organizational chart is important to ensure the correct context for determining the duty set. The information about the hierarchy within the division and the classification and qualification set of the manager and co-workers will be essential to having the ability to properly describe the duties and responsibilities of a position. A review of this documentation and a sound analysis of current documentation regarding tasks being assigned often point to several duties and responsibilities that have not been included or not understood when the latest classification exercise was conducted. The implications of recently published or revised instructions to staff, or changes to other positions within the work unit, should also be considered in this exercise.

CFPA Assistance

Each person must file the appropriate grievance/complaint paperwork for his or her position at each stage of the process. No one else can do this for you. Regional or sub-group union representatives will provide guidance and assist members in completing and processing grievances or filing complaints. Do not miss your window of opportunity to have your situation addressed. Please consult with your representative and get the information you need to address your situation.

Applicable References

Article 33.01 of the AO Collective Agreement with the Treasury Board requires that:

“Upon written request, an employee shall be provided with a complete and current statement of the duties and responsibilities of his or her position, including the classification level and, where applicable, the point rating allotted by factor to his or

her position, and an organization chart depicting the position's place in the organization.”

Article 40.03 of the AO Collective Agreement with NAV CANADA requires that:

“Upon written request, an employee shall be provided with a complete and current statement of the duties and responsibilities of his or her position, including the classification level and, where applicable, the point rating allotted by factor to his or her position, and an organization chart depicting the position's place in the organization, if one is available, or within 60 days of the request.”

What CFPA Members should do – An 8-Step Process:

1. Read Article 33.01/40.03 and understand what items of information are required to be provided to every CFPA member who is an employee.
2. Send an email to your manager requesting that the information required by Article 33.01 or 40.03 be provided to you.
3. Check to insure that all information as required by Article 33.01/40.03 of AO Collective Agreement has been provided. If yes, go to Step 6.
4. If information is missing, make a written request for the provision of the missing information.
5. If the missing information is not provided promptly, file a grievance/complaint citing Art 33.01 or 40.03 of the applicable AO Collective Agreement and request the provision of all information as required by Art 33.01 or 40.03 and Go Back to Step 3.

Example (missing point ratings and org chart):

Grievance Detail: *On [insert date] I received a new work description for my position. I requested the point rating and organization chart relating to my position and was not provided with the requested information. In accordance with Article 33.01 of the Agreement between the Treasury Board and the Canadian Federal Pilots Association, the point rating allotted by factor to my position and an organization chart depicting the position's place in the organization is required to be provided with the job description.*

Corrective Action Requested: *I request to be provided with a formal response to my grievance and the point rating allotted by factor to my position, and an organization chart depicting the position's place in the organization.*

[Note: for NAV CANADA complaints substitute *Article 40.03* and *NAV CANADA* for *Article 33.01* and *Treasury Board*]

6. If all information required by the collective agreement has been provided, conduct a careful examination of the job description for inclusion of all duties and responsibilities.

A new organizational model may bring several significant changes to the work. If there is no longer any supervisor position, some of the duties of the supervisor will be absorbed by the working level position and some will pass up to the manager position. The feasibility of the upward transference of these duties will be affected by the classification of the manager position and the requirement for professional aviation expertise.

If the job description is a national generic it will be applied to all similar positions across the country. As a result, the job description and the evaluation of it will include all duties and responsibilities found in every position in every region or division whether or not they actually occur for your particular position.

If all duties and responsibilities have been properly documented, go to Step 7.

If some important duties are missing from the job description, submit a job content grievance/complaint in accordance with Art 33.01/40.03, which requires a “complete and current” statement of duties.

Example:

Grievance Detail: *On [insert date] I received a new work description for my position. I have examined the job description and find that important duties of my position have not been included. [Insert general description of missing duties]. In accordance with Article 33.01 of the Agreement between the Treasury Board and the Canadian Federal Pilots Association, a “complete and current” statement of duties is required to be provided.*

Corrective Action Requested: *I request to be provided with a formal response to my grievance and that the significant duties including [Insert general description of missing duties] be added to the job description and that the position then be re-evaluated and revised accordingly and that the results encompassing all information required by Art 33.01 of the AO Collective Agreement be communicated to me in a timely manner.*

[Note: for NAV CANADA complaints substitute *Article 40.03* and *NAV CANADA* for *Article 33.01* and *Treasury Board*]

Go back to Step 6.

7. If the job description received is a complete and current statement of duties and responsibilities and all the required information is properly provided but you believe that the classification evaluation of the position is not correct then a classification grievance/complaint must be filed to have the situation addressed. If you feel the classification of the position is appropriate, proceed to Step 8.

Example:

Grievance Detail: On [insert date] I received a new classification evaluation for my position. I have examined the classification results and believe that the evaluation has been underrated the classification of my position.

Corrective Action Requested: I request that the classification of my position be re-evaluated and that the classification be revised upward accordingly, effective [insert date duties were assigned to the position that led you to believe a higher classification was warranted].

8. If you have been provided with a complete and current statement of duties and responsibilities, that you believe is appropriately classified, and all the required information has been provided to you, then no action is required other than to sign the job description acknowledging receipt.

NOTE: Regarding Deadlines

Please ensure that you understand that time limits exist for all these actions and if you miss the deadline to file a grievance/complaint then you lose your opportunity for recourse and you lose your right to any rectification.

For public service employees, Article 35 of the AO Collective Agreement indicates that the deadline at the first level is 25 working days from the date that the employee was served notice or became aware of the circumstances that gave rise to the grievance. At each subsequent level the grievance must be referred to the next level within 10 working days of receiving the employer's response or the grievance is deemed to be abandoned.

In the private sector, Article 22 of the NAV CANADA agreement indicates that an employee has 20 calendar days to raise a complaint with their manager, and a further 10 calendar days (for a total of 30 days), to file a written grievance, from the day that the employee became aware or ought to have been aware of the incident giving rise to the grievance.

Practice has shown that relying on others to grieve, in the hopes that you will benefit as well, is not a successful course of action. Be very wary of verbal understandings or

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assurances that the situation will be addressed. History has shown these approaches to be ineffective without a grievance on file. To have any chance of having your situation addressed, you must file a grievance within the applicable time limit.