



2022

A guide to your  
role as Supervisor

# Supervisor's Handbook



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## PART ONE

# Introduction

This handbook is designed to help you, the HEU supervisor, to understand your role and position at work and within the union. It is targeted at Supervisors who work under the Facilities Collective Agreement.

Supervisors are important and valued members of the Hospital Employees' Union. You act as advocates for workers in your area or department. And you make a significant contribution to the working lives of other HEU members.

Yet, you are in a very challenging position. On the one hand, you are often directed by the employer to represent their interests. This may create conflict with fellow HEU members and leave you feeling caught in the middle. On the other hand, you may be targeted by management and blamed for the problems in your department.

Your position in the workplace is both powerful and vulnerable.

HEU recognizes that supervisors often have a tough job and deserve our full support as union members. We are very grateful to you for taking on this difficult role.

The strength of any union depends on unity among the whole membership. One of our responsibilities as a union is to equip you, our supervisor members, with tools to deal with these challenges. This handbook is one such tool.

Creating an understanding of the circumstances facing supervisors, and providing resources to assist you as union members, are two important elements in building unity.

## **Your Right to Participate**

Supervisors are full members of the HEU. You have a right to participate in the union, and we encourage you to do so.

We recognize that some supervisors feel excluded from union activities. Your position at work may bring you into conflict with members. You may have had an unpleasant experience with a shop steward. You may also believe it is too difficult to ask for time off to attend meetings or do union business.

It is important to remember that, within HEU, your voice and vote are equal to all other members. You have the right to attend HEU conventions as a delegate, run for office in your local, and put forward motions at union meetings.

You can become a shop steward. By doing so, you will enhance your advocacy skills and learn more about the collective agreement.

You can sit on committees, such as the Occupational Health and Safety Committee. This involvement will put you in a better position to assist fellow HEU members.

You can take advantage of educational opportunities, such as labour studies programs or HEU leadership schools. Again, as your union skills and knowledge-base grow, you and your co-workers will all benefit.

You are welcome to participate in every way. In fact, getting involved with HEU will help you understand HEU: our role, our structure, our processes, our services to members. Additionally, your participation assists you in developing best ways to support you.



## PART TWO

# The Collective Agreement

### A Tool to Resolve Problems

The collective agreement is the document that governs the workplace. Like any set of rules, the collective agreement can be a valuable tool to assist us in getting along at work.

The collective agreement is negotiated during bargaining between the union and the employer. Both sides enter the bargaining process with distinct goals, and the collective agreement reflects the results of that often difficult exchange. HEU's success in achieving our goals depends in large part on our strength during the bargaining process. The union is always looking for ways to improve language in each round of bargaining.

The collective agreement is signed by both the union and the employer. Both sides have a responsibility to abide by all parts of the agreement, not just cherry-pick the articles that are favourable to either party on a given day or set of circumstances.

As an HEU supervisor, you will want to familiarize yourself with the collective agreement to understand its contents. A working knowledge of the collective agreement will help you avoid unnecessary problems that could occur if you are unfamiliar with rights that have been mutually agreed upon. When workplace issues do arise, you will be aware of some of the processes for resolving them.

The preamble to the Facilities Collective Agreement, formally titled the Health Services & Support Facilities Subsector Collective Agreement, states that the union and the employer:

*“...with the desire and intention of making their relationship more harmonious and profitable, have concluded to make provision herein for the orderly and expeditious consideration and settlement of all matters of collective bargaining and of mutual interest, including wages, hours, working conditions and the adjustment of grievances...”*

The following chapters discuss some important parts of the collective agreement. The majority of our members are covered by the facilities collective agreement, so we will refer to that document.

This handbook refers to the “facilities” collective agreement: about three out of four HEU members are covered by it. You will need to check the language if you are covered by a different collective agreement.

Collective agreements can be downloaded from the HEU’s website at [heu.org/collective-agreements](http://heu.org/collective-agreements).



## PART THREE

# Harassment

The employer has a legal responsibility to maintain a harassment-free workplace.

**There are two general types of harassment:**

1. human rights-based harassment, and
2. personal harassment.

As a supervisor, you may face situations involving either or both kinds of harassment. Many people find it difficult to talk about these sensitive issues, but there are tools and methods for handling problems.

This chapter gives you information about the collective agreement and the harassment complaints process, as well as tips for dealing with interpersonal conflict.

## Human Rights-based Harassment

Article 4 of the Health Services & Support Facilities Subsector Collective Agreement says that employees have the right to work in an environment free from harassment and also protects employees from being discriminated against due to membership or activity in the union.

**The Facilities Collective Agreement endorses the principles of the *Human Rights Code* of British Columbia. This means that every person has a right to be free of discrimination or harassment on the basis of:**

- race, colour, ancestry, place of origin;
- political belief, religion;
- marital status, family status;
- physical or mental disability;
- sex, sexual orientation, gender identity or expression;
- age;
- criminal conviction unrelated to employment, and/or
- other reasons listed in the *Human Rights Code*.

The Hospital Employees' Union upholds the right of all our members – including supervisors – to work in an environment free from harassment, including sexual harassment.

HEU is committed to effectively representing members who complain of harassment.

### **Article 4.03 Complaints Investigation**

The union has negotiated a confidential process to try to resolve human rights-based harassment of HEU members.

**The process deals with:**

1. Harassment involving HEU members only, and
2. Harassment involving other people our members work with, including managers.

**The process for human rights-based harassment has seven key points:**

1. Any HEU member who believes they are being harassed for a reason listed in the *Human Rights Code* can make a direct phone call to a complaints investigator. The investigator will try to mediate a resolution. (Please see the Resources section on page 47 for phone numbers of complaints investigators.)
2. The process is confidential. If confidentiality is a serious concern to the HEU member, you can advise them to discuss this concern with the complaints investigator.
3. The complaints investigator will give the HEU member information about their options. This includes the right to have union representation.
4. One option is mediation, which is a process of finding a solution that both sides can agree to. The complaints investigator is an experienced mediator who can help the member feel comfortable with this process. If mediation does not produce a satisfactory agreement, other options are available to the member.
5. The complaints investigator can make recommendations to ensure the HEU member has a harassment-free work environment. However, the investigator cannot recommend the disciplining or firing of anyone.
6. All HEU members should know it is against the law for anyone to try to retaliate or even threaten to retaliate against a person who has made a harassment complaint. If a member has been threatened or retaliated against, they should tell the complaints investigator.
7. It is up to the member to decide whether to make a complaint. The member must also decide for themselves exactly what to do and how far to take the complaint. They can stop the process at any time.

### **Personal Harassment**

If an HEU member thinks they are being harassed for a reason other than those listed in the *Human Rights Code*, the problem may be personal harassment.

Personal harassment is defined by arbitrator Joan McEwen as:

*“...objectionable conduct or comment directed towards a specific person(s), which serves no legitimate work purpose, and has the effect of creating an intimidating, humiliating, hostile or offensive work environment.”*

Types of action that could constitute harassment include: threats, bullying, coercion, actual or threatened physical assault, verbal assault, taunting or ostracizing, malicious gestures or actions, and sexually-based language.

The complaints investigation process may not apply in these situations. However, as a supervisor, you may be able to assist in resolving such problems. You can also advise the member to contact a shop steward or staff representative.

If you need help, get in touch with the chairperson of your HEU local. They often have resources to handle some of these situations.

## **Q&A**

### **Question: What should I do when a member approaches me with a harassment complaint?**

**Answer:** In a private conversation, try to find out whether the member feels the harassment is based on human rights discrimination. Explain that we have a complaints process that deals with such harassment, and tell them the prohibited grounds of discrimination. Ask the member if they believe the harassment may be for one of those reasons, but do not invade their privacy by asking them the particular reason.

If the member believes the harassment is based on human rights discrimination, advise them of Article 4.02 of the Facilities Collective Agreement. Tell them the seven key points of the complaints investigation process.

You may determine that the complaint is about personal rather than human rights harassment. If so, you can choose to attempt to resolve the issue between the parties, or you can refer the member to a shop steward. It is up to you to decide how best to approach this kind of conflict.

### **Question: What are some tips for dealing with conflict?**

**Answer:** In general, a supervisor can:

- Model respectful behaviour.
- Discuss mutual respect of “differences” in staff meetings and in your interaction with staff.
- Understand that issues of race, culture, age, language, social group or family upbringing can contribute to misunderstandings and assumptions. Part of your role as a supervisor is to help workers focus on their common needs and achievements in the workplace. This solidarity can help to minimize disruption based on personal differences.
- Appreciate that most workplace conflicts can be resolved, if they are addressed early and not allowed to spread to large numbers of employees. Open communication, accurate information, understanding and mutual respect are key to early resolution of conflict between members.

**In particular situations, you can:**

- Talk to the people directly involved in conflict, individually and privately. Encourage them to talk to you too.
- Don't assume someone is a troublemaker. Give the "benefit of the doubt" to each side. Get the facts and help to find common ground when workers misunderstand each other.

**Remember:** You can get help from HEU when dealing with harassment issues. Contact the shop steward and/or staff representative. See page 47 for resources.



## PART FOUR

# Bullying

Workplace bullying is defined as repeated and persistent negative acts by an individual or a group toward one or more workers. These acts are meant to intentionally harm a worker (or workers) mentally and/or physically, often to gain power over them and create a hostile work environment that impacts on their health and safety.

*Article 37.09 in the collective agreement states: “Bullying and harassment includes any inappropriate conduct or comment by a person towards an employee that the person knew or reasonably ought to have known would cause that employee to be humiliated or intimidated but excludes any reasonable action taken by an employer or supervisor relating to the management and direction of employees or the place of employment.”*

Workplace bullying is a form of harassment. It impacts everyone, not only the person being bullied. The terms “personal harassment” and “psychological harassment” have been used interchangeably with “bullying”.

A single incident of unreasonable behaviour may escalate into bullying.

*Article 4.02 of the Facilities Collective Agreement says that employees have the right “to work in an environment free from harassment.”*

Bullying can happen to anyone in the workplace. It is a health and safety issue because it can affect workers physically and/or emotionally, or make them feel unsafe at work.

*Article 37.12 in the collective agreement states: “The employer will implement in each of their workplaces the Psychological Health and Safety Standard to prevent and protect workers from psychological harm. The Standard defines a psychologically healthy and safe workplace as one that promotes workers’ psychological well-being and actively works to prevent harm to workers’ psychological health in negligent, reckless or intentional ways.”*

*“The employer must meaningfully consult with the union in identifying the problems, creating reporting process, investigation and developing a plan to control risks related to the 13 factors affecting psychological health and safety in the workplace.”*

**The 13 factors of psychological health and safety (PH&S) in the workplace are:**

- Organizational Culture
- Psychological and Social Support
- Clear Leadership & Expectations
- Civility & Respect
- Psychological Demands
- Growth & Development
- Recognition & Reward
- Involvement & Influence
- Workload Management
- Engagement
- Balance
- Psychological Protection
- Protection of Physical Safety

Bullying occurs when a worker is intentionally and repeatedly targeted with unreasonable or inappropriate behaviour that is intimidating, insulting, offensive, demeaning or humiliating.

Workplace bullying can be from managers, supervisors, team leaders, patients or co-workers.

Bullying can happen in person or behind someone's back. It happens online as well, through email and social media.

Mobbing is group bullying or a "collective campaign from co-workers to exclude, punish and humiliate a targeted worker." Like other forms of bullying, it can escalate in severity over time.

### **Bullying and harassment in WCB legislation:**

In July 2012, *Bill 14*, an amendment to the *Workers Compensation Act* was passed.

In Section 135, 1 a (ii), there is an explicit reference to bullying and harassment. The mental disorder is compensable if it is "predominantly caused by a significant work-related stressor, including bullying and harassment, or a cumulative series of significant work-related stressors, arising out of and in the course of the worker's employment."

In Section 135 1 (b), there is a requirement for the mental disorder to be diagnosed by a psychiatrist or psychologist as a mental or physical condition described in the most recent American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (DSM).

In Section 135 1 (c), the mental disorder is not compensable if it is "caused by a decision of the worker's employer relating to the worker's employment, including the decision to change the work to be performed or the working conditions, to discipline the worker or to terminate the worker's employment."

## **Types of bullying behaviour:**

Bullying is typically targeted toward one or a few selected workers, rather than being a form of more generalized workplace incivility. The targeted worker is subjected to negative behaviour on such a scale that they find it difficult to defend themselves.

### **Types of bullying behaviour can include:**

- Constant nit-picking, fault-finding and criticism of a trivial nature;
- Excessive criticism or monitoring of work;
- Being singled out and treated differently;
- Being belittled, demeaned and patronized, and
- Social isolation or silent treatment.

Studies have shown a link between organizational issues/changes and bullying.

## **How do you know when it's bullying?**

If you are experiencing bullying behaviour from someone, you may feel ill and experience some of the following health issues:

- Constant high levels of stress and anxiety;
- Frequent illness such as viral infections;
- Aches and pains in the joints and muscles with no obvious cause;
- Headaches and migraines;
- Tiredness, exhaustion, constant fatigue;
- Sleeplessness, nightmares;
- Flashbacks and replays – can't get the bullying out of your mind;
- Irritable bowel syndrome;
- Skin problems such as eczema, psoriasis etc.;
- Poor concentration;
- Sweating, trembling, shaking, palpitations, panic attacks;
- Tearfulness, bursting into tears regularly and over trivial things;
- Uncharacteristic irritability and angry outbursts;
- Hyper vigilance (feels like, but is not, paranoia), being constantly on edge, and
- Shattered self-confidence, low self-worth, low self-esteem.

## **Effects of workplace bullying:**

- Deterioration in the quality of patient care delivered;
- Deterioration in the quality of staff relations;
- Low staff morale;
- Increase stress levels and stress-related illnesses;
- Feelings of shock, disbelief, shame, guilt, anger, fear and powerlessness;
- Depression and self-blame, which can lead to loss of confidence;

- Sleeplessness and loss of appetite;
- Lower levels of job satisfaction;
- Increased costs to employers and health care system;
- Increased absenteeism and sick leave;
- Poor performance and lost productivity;
- Loss of creative problem-solving capacity, and
- Staff resignations.

### **Common myths about bullying:**

**“Only weak and inadequate people are bullied.”**

The two most common reasons – by far – for attracting the attention of a bully are being good at your job and popular with people. Bullying is about projecting one’s own weaknesses and failings onto others. Only a bully has the insensitivity to make a statement like the one above, and in so doing, unwittingly confesses to their own weakness and inadequacy.

**“People respect toughness.”**

Firmness, assertiveness, fairness, trustworthiness, leadership – those are respected. Bullying is none of these. Bullying is about gratifying oneself through hurting others.

**“You’re too sensitive.”**

Also, you’re conscientious, industrious, reliable, honest, trustworthy, imaginative, creative and a host of other virtues. The person who produces this statement as a justification for bullying is demonstrating their insensitivity and prejudice. Most wars and conflicts are caused by the insensitivity of one or both parties.

**“You take things too personally.”**

This is denial of the effects of our behaviour on others; the bully is openly, but unwittingly, admitting their insensitivity.

**“You are over-reacting.”**

Just as a person who has been hit over the head with a blunt instrument would not be considered as “over-reacting” when they report a fractured skull, a person who has been bullied should not be regarded as “over-reacting” when they report the severe psychiatric injuries.

**“It’s all your fault.”**

Admission of insensitivity, denial of responsibility for behaviour or its consequences, also projection, etc.

**“It’s a clash of personality.”**

Technically, it’s a clash of behaviour styles, but it is the bully’s behaviour which is unacceptable.

**“It’s just strong management.”**

Bullying has nothing to do with management. It is about gratification of the individual by projecting weaknesses, failings and shortcomings onto others as a way of avoiding having to face up to, tackle, and overcome faults in oneself.

### **What you can do to stop bullying?**

Work with the union and management to develop awareness about bullying in your workplace.

Familiarize yourself with any existing workplace policies on the issue, and ensure everyone in the workplace knows about them.

Support members who come forward to share that they may be the targets of bullying. Ensure that they are referred to a shop steward and have proper union representation. It takes enormous courage to stand up to bullies in any environment, and those who are targeted will sometimes silently endure such treatment for long periods of time before speaking up.

Bullying happens because it’s allowed to. It can be devastating and can lead to trauma, depression and, in the worst cases, suicide.



## PART FIVE

# Working Through Conflict

**Conflict is not necessarily a bad thing. Working through conflict can help resolve problems that surface, as well as getting benefits that you might not expect:**

- **Increased understanding:** The discussion needed to resolve conflict expands people's awareness of the situation, giving them an insight into how they can achieve their own goals without undermining those of other people.
- **Improved relationships:** When conflict is resolved effectively, parties can develop stronger mutual respect and a renewed faith in their ability to work together.
- **Improved self-knowledge:** Conflict pushes individuals to examine their goals in close detail, helping them understand the things that are most important to them, sharpening their focus, and enhancing their effectiveness.

However, if conflict is not handled effectively, the results can be damaging. Conflicting goals can quickly turn into personal dislike. The ability to work together is compromised. Talent is wasted as people disengage. Everyone is left unsatisfied.

### Conflict styles:

Sometimes it is helpful to look at how we react to conflict. Below are some main styles of dealing with conflict. They are not conclusive and may not accurately reflect everyone's styles, but could be helpful to us in beginning some self-assessment on how we react in situations of conflict. While we may revert to one particular style more often, it should be acknowledged that we may utilize more than one style, even in a given situation.

Ideally, we can adopt an approach that meets the situation, resolves the problem, respects people's legitimate interests, and mends damaged relationships.

## **Five common styles of dealing with conflict:**

**Competitive:** People who tend toward a competitive style take a firm stand, and know what they want. They usually operate from a position of power, drawn from things like position, rank, expertise or persuasive ability. This style can be useful when there is an emergency and a decision needs to be made fast, when the decision is unpopular, or when defending against someone who is trying to exploit the situation selfishly. However, it can leave people feeling bruised, unsatisfied and resentful when used in less urgent situations.

**Collaborative:** People tending toward a collaborative style try to meet the needs of all people involved. These people can be highly assertive, but they cooperate effectively and acknowledge that everyone is important. This style is useful when you need to bring together a variety of viewpoints to get the best solution, when there have been previous conflicts in the group, or when the situation is too important for a simple trade-off.

**Compromising:** People who prefer a compromising style try to find a solution that will at least partially satisfy everyone. Everyone is expected to give up something, including the compromiser. Compromise is useful when the cost of conflict is higher than the cost of losing ground, when equal strength opponents are at a standstill, and when there is a deadline looming.

**Accommodating:** This style indicates a willingness to meet the needs of others at the expense of the person's own needs. The accommodator often knows when to give in to others, but can be persuaded to surrender a position even when it is not warranted. This person is not assertive, but is highly cooperative. Accommodation is appropriate when the issues matter more to the other party, when peace is more valuable than winning, or when you want to be in a position to collect on this "favour" you gave. However, people may not return favours, and overall this approach is unlikely to give the best outcomes.

**Avoiding:** People tending toward this style seek to evade the conflict entirely. This style is typified by delegating controversial decisions, accepting default decisions, and not wanting to hurt anyone's feelings. It can be appropriate when victory is impossible, when the controversy is trivial, or when someone else is in a better position to solve the problem. However, in many situations, this is an ineffective approach to take.

## **Tips for working through conflict:**

**Three guiding principles: Be Calm. Be Patient. Have Respect.**

Where possible, identify the goal of your conversation – be wary of goals that rely on the behaviour of the other person (e.g., change their mind). Look for goals that relate to the source of the conflict and how to resolve the issue successfully.

Clarify sources of power between the parties. Name them. This can include rank (manager-worker, elected union officer-member), social power (based on class, race, gender, sexual orientation, ability, level of education, etc.), personal power (e.g., expertise, communication skills, size), and/or power that you garner from other sources (e.g., legal rights, support and solidarity from others).

Enter into a respectful exchange. Be calm. Be respectful. Try to build mutual respect. Do your best to be courteous and remain constructive under pressure, even if others aren't. It is often helpful for the parties to agree on some ground rules before entering into discussion (e.g., stick to the issue, use "I" statements, don't interrupt).

Keep people and problems separate. Recognize that in many cases the other person is not just "being difficult" – real and valid differences can lie behind conflicting positions. Be sure to focus on issues and leave personalities out of the discussion.

Listen. To solve a problem effectively, you have to understand where the other person is coming from before defending your own position. Pay attention to the interests that are being presented and try to understand why the person is adopting their position. Some techniques to assist you in active listening include paraphrasing, summarizing, asking clarifying questions, and indicating your understanding.

Recognize emotions and triggers. Know yourself – what sets you off. Recognize that other people have triggers and emotions, and try to recognize them (or ask about them) yourself. Speak from a feeling perspective, instead of from a blaming perspective.

Identify the problem. You'll need to agree on the problem(s) that you are trying to solve before you'll find a mutually acceptable solution. Naming the problem(s) will give you a clear understanding of what you are working toward, and will force you to look more objectively at where your interests lie. You may also come to the conclusion there's no real problem other than miscommunication. If you can't reach a common perception of the problem, then at the very least, you need to understand what the other party "sees" as the problem.

Gather information. Ask for the other party's viewpoint and confirm that you respect their opinion, and appreciate their cooperation to solve the problem. Try to understand their motivations and goals, and see how your actions may be affecting them. Try to understand the conflict in objective terms: is it affecting union solidarity? Is it damaging respectful relationships? Is it hampering effective decision-making? What's really at stake? And so on.

If you are wrong, quickly admit it and take responsibility. You could say, "You're absolutely right, it is my fault and here is what I'll do to fix it." Even if you're NOT wrong, at least give them the benefit of the doubt, "I may be wrong, let's look at the facts together." It's hard to argue with that!

Brainstorm possible solutions. If all parties are going to feel satisfied with the resolution, it will help if everyone has had fair input in generating solutions. Brainstorm possible solutions, and be open to all ideas, including ones you never considered before.

Negotiate a solution. By this stage, the conflict may be resolved: both sides may better understand the position of the other, and a mutually satisfactory solution may be clear to all. However, you may also have uncovered real differences between your positions. This is where negotiation can be useful to find a solution that, at least to some extent, satisfies everyone.

Know when to walk away. Sometimes, the other party is unable to work through the conflict with you, no matter what you try. You are best to walk away before you become frustrated. You

can do this, and remain committed to resolving the conflict, by suggesting some follow-up to the unresolved issues at another time. Or, you may find yourself having to acknowledge that a mutual solution can't be reached, and that you will have to explore other ways of reaching your objectives.

Don't be afraid to ask for help. Sometimes third-party intervention is the right solution. Don't be afraid to go to a trusted party for assistance (within the workplace or the union), if you think it might help.

If the situation turns verbally abusive, put a stop to it. Firmly, but calmly, state: "You're very angry right now and you're saying things you don't mean (give them the benefit of the doubt). I'm going to excuse myself. We can talk again after you calm down." Then leave the room or ask them to leave.



## PART SIX

# Supervisors as Advocates

An advocate is “one who supports or speaks in favour of [policy, etc.]; one who pleads for another.” (Oxford Dictionary)

As an HEU supervisor, you can play an important role as an advocate for your work area/department and your co-workers.

### **Being an advocate at work:**

Being an advocate at work can mean standing up for the needs of the people you supervise so they are better able to perform their jobs in a safe and efficient manner. Supervisors are an important medium of communication between workers and managers. For example, you can inform managers about the needs of your department regarding new equipment, scheduling work flow, health and safety, and other organizational issues. You can also advocate for your own needs as a supervisor.

If your fellow HEU members see you as someone who cares about their work issues, they will be more likely to approach you with problems at an early stage. This means you will be better able to assist in resolving conflicts and preventing future problems.

Whenever possible, try to be available and open to HEU members. They will often have concerns about excessive workloads or have ideas about improving workflow. Be open to their needs and suggestions, then be sure to follow up and communicate what you are doing to address the problems.

As an HEU supervisor, you have access to many resources such as the collective agreement, local shop stewards and officers, WorkSafeBC’s *Occupational Health and Safety Regulation*, and your own communication skills. The following chapters explore some of these resources.

# General Hospital



## PART SEVEN

## Occupational Health and Safety

Occupational Health and Safety is one of the most important concerns for our members. Health care workers have the highest level of injury rates of any industry in B.C. Our members are injured on the job daily. Sometimes, the injuries have long-lasting and even permanent impact.

As a supervisor, you play a critical role as an advocate for workers' health and safety. You are in a position to inform management how work in your area may be done more safely.

If equipment is unsuitable or unsafe, workers rely on you to communicate their concerns and possible solutions to management, either directly or through the HEU members on the Joint Occupational Health and Safety Committee (JOHS or OH&S Committee).

OH&S Stewards appointed to the OH&S Committee shall be released with pay to participate on the committee.

The preamble to the Occupational Health and Safety clauses of the Facilities Collective Agreement (Article 37) states:

*"The Employer and the Association agree to cooperate in the promotion of safe working conditions, the prevention of accidents, the prevention of workplace injuries and the promotion of safe workplace practices."*

HEU should have representation on all Occupational Health and Safety committees. The *Workers Compensation Act* and WorkSafeBC's *Occupational Health and Safety Regulation* outline the rights and responsibilities of committee members. These documents must be available to every worker at every work site.

Article 37.01 (c) states, "*Where the JOHSC is conducting an accident investigation or workplace inspection involving a FBA member, the designated FBA JOHSC Member representative (or alternate) shall be released from their regular duties to participate in the investigation or inspection.*"

**Some of the duties of the committees are to:**

- conduct regular workplace inspections with the goal of preventing unsafe conditions;
- increase awareness of staff on topics such as safe-lifting techniques, WHMIS (Workplace Hazardous Materials Information System), safe-handling of materials, and ergonomics regulations;
- make recommendations to fix all unsafe conditions, including ergonomics adjustments and measures to protect pregnant employees;
- conduct accident investigations;
- ensure the employer is providing instruction in caring for aggressive patients/residents/clients;
- ensure the employer is complying with the Violence Regulations that are now part of the *Occupational Health and Safety Regulation*, and
- receive workload complaints and make recommendations for a solution (see details in the Workload chapter on page 27).

The *Workers Compensation Act* puts the ultimate onus on employers, not supervisors, to ensure that work is carried out without undue risk of injury or industrial diseases. However, the Act also has specific requirements of supervisors to ensure the health and safety of workers under your direct supervision (Section 117). Therefore, you must be knowledgeable about the *Workers Compensation Act* and WorkSafeBC's *Occupational Health and Safety Regulation*.

**Section 115 of the Workers Compensation Act**

1. Every employer must
  - a. ensure the health and safety of
    - i. all workers working for that employer, and
    - ii. any other workers present at a workplace at which that employer's work is being carried out, and
  - b. comply with this Part, the regulations and any applicable orders.
2. Without limiting subsection (1), an employer must
  - a. remedy any workplace conditions that are hazardous to the health and safety of the employer's workers,
  - b. ensure that the employer's workers
    - i. are made aware of all known or reasonably foreseeable health or safety hazards to which they are likely to be exposed by their work,
    - ii. comply with this Part, the regulations and any applicable orders, and
    - iii. are made aware of their rights and duties under this Part and the regulations,
    - iv. establish occupational health and safety policies and programs in accordance with the regulations,
  - c. provide and maintain in good condition protective equipment, devices and clothing as required by regulation and ensure that these are used by the employer's workers,
  - d. provide to the employer's workers the information, instruction, training and supervision necessary to ensure the health and safety of those workers in carrying out their work and to ensure the health and safety of other workers at the workplace,

- e. make a copy of this Act and the regulations readily available for review by the employer's workers and, at each workplace where workers of the employer are regularly employed, post and keep posted a notice advising where the copy is available for review,
- f. consult and cooperate with the joint committees and worker health and safety representatives for workplaces of the employer, and
- g. cooperate with the board, officers of the board and any other person carrying out a duty under the Part or the regulations.

### ***Section 117 of the Workers Compensation Act***

General duties of supervisors:

1. Every supervisor must
  - a. ensure the health and safety of all workers under the direct supervision of the supervisor,
  - b. be knowledgeable about this Part and those regulations applicable to the work being supervised, and
  - c. comply with this Part, the regulations and any applicable orders.
2. Without limiting subsection (1), a supervisor must
  - a. ensure that the workers under their direct supervision
    - i. are made aware of all known or reasonably foreseeable health or safety hazards in the area where they work, and
    - ii. comply with this Part, the regulations and any applicable orders,
  - b. consult and cooperate with the joint committee or worker health and safety representative for the workplace, and
  - c. cooperate with the Board, officers of the Board and any other person carrying out a duty under this Part or the regulations.

### **WorkSafeBC Occupational Health and Safety Regulation:**

#### **SECTION 2.2 General Duty**

*“Despite the absence of a specific requirement, all work must be carried out without undue risk of injury or occupational disease to any person... without limiting the generality of the foregoing, the health and safety program must include: Section 3.3(g). Provision by the employer for the instruction and supervision of workers in the safe performance of their work...”*

#### **SECTION 3.10**

*“Whenever a person observes what appears to be an unsafe or harmful condition or act he must report it as soon as possible to a supervisor or to the employer, and the person receiving the report must investigate the reported unsafe condition or act and must ensure that any necessary corrective action is taken without delay.”*

**As supervisors, you want to be aware of these other pertinent sections of the OH&S Regulation:**

- Section 3.22 – 3.25    Young & New Workers
- Section 4.20 – 4.23    Working Alone or in Isolation
- Section 4.27 – 4.31    Violence in the Workplace
- Section 4.46 – 4.53    Ergonomics (MSI) Requirements

## **Violence in the Workplace:**

**If you need immediate help with a potential targeted threat of violence:**

- Call 911, if you believe there is immediate danger;
- Contact the B.C. Public Service Agency's 24-hour emergency safety line at 1-250-952-0911.
  - This number is for employees of the B.C. provincial government and their managers only. If you are not employed by the B.C. provincial government, please call WorkSafeBC at 1-888-621-SAFE (7233).

WorkSafeBC defines violence as “the attempted or actual exercise by a person, other than a worker, of any physical force so as to cause injury to a worker, and includes any threatening statement or behaviour which gives a worker reasonable cause to believe that [they are] at risk of injury.”

Violence or conflict between co-workers is covered under the *Workplace Conduct* regulation and the *B.C. Public Service Standards of Conduct*. It’s the supervisor’s responsibility to manage.

Violence isn’t just a physical assault. It also includes threats, verbal abuse, intimidation and the spillover of domestic violence into the workplace. All staff play a vital role in preventing violence by following safe work procedures, reporting incidents, and helping with risk assessments or investigations.

**When there is a risk of violence, employees need training in:**

- How to recognize potential violence;
- Workplace-specific violence prevention procedures, such as de-escalation;
- Response to violent incidents;
- Reporting violent incidents, and
- Accessing counselling and support.

All violent or potentially violent incidents require an investigation and follow up. Supervisors should review the violence prevention program regularly. Visit Managing Occupational Health & Safety’s Violence in the Workplace to learn about supervisor’s responsibilities.

Learn more about safety training or enrol in violence in the workplace training courses.

New language added to the Facilities Collective Agreement in 2019 provides for leave due to “Sexual and Domestic Violence”.

**37.10 Sexual and Domestic Violence:** The Employer shall grant a request for an unpaid leave to a maximum of seventeen (17) weeks if the reason is in relation to domestic or sexual violence. In the event that present or future legislation enacts provisions with a greater entitlement to maximum weeks of leave in relation to domestic or sexual violence, that legislative provision shall prevail. An employee’s entitlement to leave under this Article is in addition to any entitlement to leave under other articles of the collective agreement. An employee granted leave under this Article shall be entitled to benefits in accordance with Articles 35.05 and 35.07. Casual employees shall not be required to be available for shifts for up to seventeen (17) weeks if the employee’s unavailability is in relation to domestic or sexual violence.



## PART EIGHT

# Refusing Unsafe Work

In most cases where a worker refuses to follow orders from an employer, the worker may be subject to discipline for insubordination. But there are two exceptions to the rule:

1. A worker cannot be asked to commit a crime or violate any law, and
2. A worker has the right to refuse to carry out unsafe work.

In fact, every worker has a legal obligation to refuse to carry out any work process that they believe to be unsafe for any person. This right is established under WorkSafeBC's *Occupational Health and Safety Regulation 3.12*.

### ***Regulation 3.12***

*"A person must not carry out or cause to be carried out any work process or operate or cause to be operated any tool, appliance or equipment if that person has reasonable cause to believe that to do so would create an undue hazard to the health or safety of any person."*

As a supervisor, you should be aware that every worker, including yourself, is legally obliged to refuse unsafe work. The hazardous work may be part of the work procedure, or unsafe tools and equipment, or a hazard in the work environment. Nobody has the right to force a worker to do something that is hazardous. The worker does not have to provide unequivocal facts to prove the hazards.

Under Regulation 3.12, there are specific steps and procedures to follow in the process of investigating the worker's complaint of hazardous work.

The employer, or you, receive a report from a worker refusing to do hazardous work. The person who receives the report, preferably the employer, must investigate the hazardous work in the presence of the refusing worker.

The employer must then rectify any hazardous and unsafe conditions. If the hazardous condition cannot be rectified immediately, the worker can be assigned other work, within their job description, that is not hazardous.

After the investigation in the presence of the refusing worker, if the employer does not believe there is a hazard, then the employer must inform the worker of this in the presence of an HEU representative of the OH&S Committee or a shop steward.

If the worker still believes the work is hazardous, there must be another investigation with the participation of the refusing worker and the shop steward or HEU representative of the OH&S Committee.

If there is a disagreement between the worker who is refusing and the employer, the worker is not obliged to accept the employer's position, but can continue to refuse the work that they believe is hazardous.

Under these circumstances, both parties must call the WorkSafeBC inspector indicating that the worker is refusing the unsafe work under Regulation 3.12.

A worker cannot be subjected to discriminatory action (as defined by Section 150 of the *Workers Compensation Act*) for refusing hazardous work under 3.12. If the worker has reasonable cause to believe that the work is hazardous, but it turns out to be incorrect, the employer cannot discipline the worker.



## PART NINE

# Workload

As an HEU supervisor, you may become involved in trying to resolve concerns about unsafe or excessive workloads for employees in your department.

Unsafe workloads are a frequent source of injury. HEU members are advised to perform their duties at a reasonable pace, at all times, and to take their allotted rest and meal breaks in full.

If you or anyone you supervise experiences an increase in workload, there are steps you can take to try to resolve the problem. Remember, for every accident or injury at work, there are many unsafe conditions that could lead to future health and safety problems for our members and for patients, residents, clients or the public.

Workload problems must be solved collectively. Your aim is to understand, build trust, gain cooperation, and help solve the problem.

You can play a key role in resolving workload problems by carefully documenting concerns and making recommendations to the employer, who has the ultimate responsibility for making necessary changes.

HEU provides its members with *Workload Journals* to document workload issues. These are available to download from our website ([heu.org/local-executive-documents](http://heu.org/local-executive-documents)) or by contacting your HEU local or nearest HEU office.

New language in the 2014 Facilities Collective Agreement added to Article 37.07 (a) requires employers to prioritize the work in situations where absent employees have not been replaced and there is no reduction in work demand.

Further language, underlined below, in the 2019 collective agreement expanded this language.

## **37.07 Employee Workload**

- a. The Employer shall ensure that an employee's workload is not unsafe as a result of employee absence(s). Employees may refer safety-related workload concerns to the Occupational Health and Safety Committee for investigation under Article 37.01(c).
- b. The Employer will make all reasonable efforts to fill absences if the workload is significantly impacted during the absence. The Employer will give reasonable consideration to replacing leaves or absences using regular relief or float positions. In situations where employees are absent and have not been replaced and where the work demand has not reduced, the Employer will provide work prioritization to employees in the same unit who are at work during the absence.
- c. In any unit or facility, in instances where there is additional patient demand or over census status the Employer will call in additional employees, as deemed necessary by the Employer, to meet the demands or patient needs.

### **Addressing complaints about excessive or unsafe work:**

Listen carefully to the member. Let the person tell the story in their own way. Keep a record of the complaint, and assure the member that you will follow up.

#### **Ask questions, such as:**

- What do you see as a workload problem?
- When did the problem begin?
- Is this an isolated incident or is there a history to the problem?
- Are they working short-staffed? If so, how often? Has the employer provided work priority lists, in writing, to refer to when working short-staffed?
- Are there any problems with equipment? Is there appropriate equipment, e.g., a mechanical lift?
- Are there ergonomic problems? Does the worker have to bend, twist or reach unnecessarily or lift excessive weights? Are there ways to avoid lifting above the shoulders by rearranging the work area or supplies? Does the work require repetitive motion that puts stress on a particular part of the body?
- Are there other people in the department who are having similar problems?
- What does the worker suggest to solve the problem?
- How can you and the worker work together to document the problem?

### **Resolving workload complaints:**

If the situation is an emergency, report to management with any recommendations you may have. Advise the member of their right to refuse unsafe work under *Occupational Health and Safety Regulation 3.12*.

Non-emergency situations may require further consultation and planning. In order to convince management of the need to address workload concerns, you may need further documentation to support the worker's claim of a workload problem.

Contact an HEU member of the Occupational Health and Safety Committee. The member will be able to obtain important statistical information such as injury rates in the area, accident or near miss reports, the number of WorkSafeBC claims, hazard reports, and other relevant information.

Refer to Article 37 of the Facilities Collective Agreement and review the process to refer workload complaints to the Occupational Health and Safety Committee.

Refer to the *Occupational Health and Safety Regulation* (see excerpts in the Occupational Health and Safety chapter of this handbook on page 21). In particular, note Section 4.46 Ergonomics (MSI) Requirements.

In addition to working with the HEU member of the Occupational Health and Safety Committee, you may wish to contact the local executive, the staff representative, or an Occupational Health and Safety representative in the HEU Provincial Office to exchange ideas on how to best use the information you have gathered.

You can assist the member(s) who brought the issue to your attention by acting as an advocate in resolving the problem. Keep the member(s) involved in the process.

### **Advocating for ergonomic changes:**

Under Article 37.01(g) of the Facilities Collective Agreement, the Occupational Health and Safety Committee has the mandate to make recommendations on ergonomic adjustments. Contact your HEU committee members for assistance.

The committee may be able to use the resources of a WorkSafeBC ergonomist to assist in solving an ergonomic problem.

You can also refer to the Ergonomics (MSI) Requirements of the *Occupational Health and Safety Regulation* (Section 4.46).

New language in the 2019 Facilities Collective Agreement regarding ergonomics:

#### **37.11 Ergonomics**

For all new and renovated offices, pods or work areas, the Employer, in consultation with the JOSHC, shall conduct a risk assessment and evaluate whether adjustable workstations (adjustable height monitors and desks/keyboards) are required. There shall be adequate space between workstations for equipment and workers to move around safely. The definition of adequate will be based on existing building guidelines, codes and standards, with input from the JOHSC and staff doing the work. Within 30 days of an employee's request, the Employer shall commence a risk assessment process to determine if an employee's workstation is of adequate size and functionality.



## PART TEN

# Duty-to-Accommodate

## Enhanced Disability Management Program (EDMP):

This program was developed to provide assistance to members who are off due to illness or injury for a period of greater than five days, or in the case of a workplace injury, the first day of injury, and who may require assistance in their safe return to work or with the gathering of medical evidence to support their claim for long-term disability (LTD). The EDMP stewards are specially trained to exclusively assist such members in conjunction with the employer's disability consultants. If you have any questions regarding this program, you may contact your local steward.

### Background:

The 1999 Supreme Court of Canada *Meiorin* decision is the point of reference, or benchmark, for any duty-to-accommodate (DTA) analysis. The *Meiorin* decision broadened that definition to place a positive obligation on employers to design workplace standards and requirements so that they do not discriminate (e.g. the employer must take proactive action to ensure these standards and requirements are not discriminatory).

### What is the duty-to-accommodate?

The fundamental nature of the duty-to-accommodate requires employers to make every reasonable effort, short of undue hardship, to accommodate workers or service-users who fall under a ground of discrimination within human rights legislation.

In the workplace, the duty-to-accommodate is the legal requirement for employers to proactively eliminate employment standards, practices, policies, requirements, procedures or rules that discriminate against individuals or groups on the basis of a prohibited ground such as race, sex, disability, age, family status, and so on.

The employer must take all steps, short of undue hardship, to eliminate discrimination related to human rights grounds. For example: policies, procedures, requirements, standards and practices must be designed to ensure that those who have a lower level of visual acuity or those who require a private area in which to conduct prayers, or those who require modified work hours for family care responsibilities, do not encounter barriers.

If a policy, procedure, requirement, standard or practice is already in place, then these must be revoked or replaced by one that is not discriminatory, unless it is found to be a bona fide occupational requirement. (Note: this does not apply to discrimination arising from special programs designed to redress historical inequality.)

Given the case law to date, if the union did not contribute to the discrimination, the employer must look for all other ways to accommodate the worker before expecting the union to alter or waive application of the collective agreement. However, the union is always required to cooperate and be flexible in the reasonable accommodation of a worker.

### **Who has the right to be reasonably accommodated?**

The duty-to-accommodate is usually thought of in terms of disability, but it relates to a broad range of individual differences among workers. Individuals or groups who are protected under human rights legislation have the right to accommodation.

### **Is the employer the only one who has a “duty-to-accommodate” workers?**

The burden to accommodate rests on the employer because it has ultimate control over the workplace. It must investigate all possible accommodations and consult the union and employee. While the employer has the principal duty-to-accommodate workers, the union also has a duty-to-accommodate.

Non-discrimination and/or duty-to-accommodate clauses are found in almost all collective agreements. As a result, a worker's right to be accommodated is a collective agreement right.

Where the union has negotiated an arrangement or a collective agreement provision that has a discriminatory impact, it has a joint responsibility with the employer to proactively eliminate that discrimination. However, even if the union was not involved in negotiating or implementing a discriminatory provision, it must cooperate with the efforts of the employer to accommodate the worker. If the employer does not take this responsibility seriously, the union should insist that the employer take the necessary action.

In most cases, the union should support accommodation measures because the agreement provisions can and should be interpreted and applied in a way that avoids a discriminatory impact. However, the union does not have to support an employer's accommodation measures if it can demonstrate there is a substantial interference of collective agreement rights.

It should be noted that the worker has an obligation to cooperate and facilitate the accommodation process, including providing information that will assist in determining what accommodation is

required and, if possible, identifying appropriate accommodation. The worker must accept “reasonable” accommodation, even if it is not ideally what the worker wanted.

If the worker refuses to accept a proposed accommodation, then they should provide a reasonable explanation for this refusal. Conversely, while an employee has an obligation to cooperate, they are not required to accept a proposed accommodation that is unreasonable (e.g. an accommodation proposal that threatens the employee’s general health and well-being).

### **When does the “duty-to-accommodate” a worker arise?**

*Meiorin* has set out a positive obligation on the employer to design the workplace so that equality and accommodation are built in to all policies and practices. As the decision states:

*“Employers designing workplace standards owe an obligation to be aware of both the differences between individuals, and differences that characterize groups of individuals. They must build conceptions of equality into workplace standards. By enacting human rights statutes and providing that they are applicable to the workplace, the legislatures have determined that the standards governing the performance of work should be designed to reflect all members of society, in so far as this is reasonably possible.”*

As a practical matter, workers do have an obligation to advise the employer of the accommodations they may require.

Once a worker establishes a case that they fall within a prohibited ground under human rights legislation (such as disability, religion or family status), then the burden shifts to the employer to prove that every reasonable effort was made to accommodate the worker.

In other words, the worker must show that they have a disability, a religious practice, or have family responsibilities that require accommodation. Without the accommodation, there are barriers for the worker who is unable to fully participate and/or have access to benefits and opportunities that others have in the workplace. The employer is obligated to remove the barriers through accommodation of the worker.

### **What is “undue hardship”?**

Employers are obligated to reasonably accommodate workers up to the point of undue hardship. The undue hardship threshold is high. This principle has been largely defined through jurisprudence (decisions by various courts and tribunals in human rights matters), and implies the excessive and substantial disruption or interference with the employer’s operation. Undue hardship does not mean minor inconvenience or interference. Basically, accommodation measures must be taken unless it is impossible to do so without imposing undue hardship.

### **Supporting workers:**

As a supervisor, you can support workers asking for, or receiving, an accommodation by talking to other workers in your department about the importance of duty-to-accommodate principles, and making it clear that this is supported by the union.

## **Early accommodation measures for employees:**

In the *LTD – Early Accommodation Measures for Employees Memorandum of Agreement* of the Facilities Collective Agreement, it states the “parties agree that the long-term health of injured and disabled employees benefits from timely and proactive measures that meet their medical restrictions to keep them working, or results in their early return to work from LTD.”

During the LTD qualifying period, and where employees cannot be accommodated in their own occupation, they may be accommodated into an available and comparable position as defined in Article 17.04 (Bumping).

During the first 19 months of LTD benefits, employees may be accommodated into an available position that is not less than 75 per cent of their pre-disability earnings.

## **Return to work:**

In the *Enhanced Disability Management Program Memorandum of Agreement* of the Facilities Collective Agreement, it states the “parties recognize that the personal and financial costs associated with absences from work as a result of illness or injury has an adverse impact on the lives of individuals and the delivery of health care services.”

It also says the “parties are committed to the joint implementation and administration of a comprehensive, seamless, cost-effective system for providing early intervention, long-term disability and return to work programs.”

The Enhanced Disability Management Program (EDMP) is available to support employees – either absent from work or struggling at work – through medical, personal, workplace and vocational challenges. EDMP builds on the disability management processes already in place by providing employees with the support of an integrated and collaborative disability management team who will develop a customized plan for each employee, focused on recovery and a safe and timely return to work. This plan may include medical intervention, transitional work, workplace modifications, and graduated return to work planning.

Supervisors play a crucial role in helping employees to access the program, to keep them connected to the workplace, or to support their safe return to work.

Referral to the program is based on the following criteria: all full-time and part-time employees who have missed one day of work due to a work-related illness or injury, or have missed five consecutive shifts due to a non work-related illness or injury. Regular employees who are struggling at work, but do not meet the criteria, and casual employees can refer themselves into the program, however, services provided may vary.

Employees’ medical information is kept confidential, and only available to the disability management team working directly on their file. Personal information is provided to supervisors only on a need-to-know basis, limited to the nature of an absence and any functional information relating to their return to work.

## **Assisting a worker returning to work:**

**As a supervisor, you can assist a worker returning to work by:**

- referring eligible employees to EDMP;
- providing information about the program;
- assisting with a smooth transition back to work and supporting graduated return to work plans, and
- talking to other workers in your department about the importance of return to work programs and making it clear that this is a collective agreement right that is supported.



## PART ELEVEN

# Grievance Procedure

As discussed the Facilities Collective Agreement is the agreement between the union and the employer. Both parties to the agreement must abide by it. If any member believes that a provision of the collective agreement is being violated, the grievance procedure is available to try to resolve the issue.

In most cases, there may be a simple misunderstanding of the agreement that can be resolved informally in Step One of the grievance procedure. In other cases, there may be a genuine disagreement between a member and the employer about what the words in the agreement really mean.

### Steps to the grievance procedure:

Remember, this handbook refers to language in the Facilities Collective Agreement. If you are not covered by that agreement, read your own collective agreement carefully to see what your rights are.

#### *Article 9 – Grievance Procedure*

**Step One** is a verbal discussion between the grievor, a shop steward, and the grievor's immediate supervisor or department head. The grievor has the right to have union representation (a shop steward) assist in the presentation of their grievance.

As of the 2019 Facilities Collective Agreement, shop stewards may be utilized from other sites, under certain circumstances.

### 5.13 Multi-Employer Work Sites

An employee who is called to an employer-initiated meeting will first access a steward from their employer. If there is no steward at that employer, the employee may utilize a facilities subsector steward employed by a different employer at that work site. The shop steward will discuss this with their manager so that an appropriate leave may be arranged.

In most cases, the shop steward will speak on behalf of the grievor. HEU provides educational opportunities for shop stewards to enhance their skills in advocating for members.

As an HEU supervisor, you should remember that the grievor is claiming the employer violated the collective agreement. Although management has the right to manage, they are also bound by the language in the collective agreement. For instance, the employer may not institute a rule that violates or contradicts any part of the collective agreement.

As supervisor, it is important for you to avoid being caught in the middle of a dispute in your department. Step One (the verbal discussion) should be dealt with by management whenever possible. In some straightforward cases, you may be able to assist in resolving a grievance by explaining the issue to management. But in most cases, it is preferable to refer the grievor to a manager.

**Step Two** occurs if the grievance is not settled at Step One. At this stage, the grievance is written out on a grievance form and presented to the employer, who will respond to the grievance in writing.

## **Q&A**

**Question:** Can an individual HEU member make changes to the provisions of the collective agreement?

**Answer:** No. HEU is the “sole bargaining agent” for members of the union. This means that the provisions of the collective agreement may not be altered to meet individual requests. HEU members can initiate changes to the collective agreement by participating in bargaining conferences and other union processes for negotiating collective agreement renewals.

**Question:** Should I accept or sign the response section of a grievance form?

**Answer:** No. Step Two of the grievance procedure should be presented to a management person who is not a member of HEU.

**Question:** Do I have the right to file a grievance?

**Answer:** Yes. Any HEU member has the right to use the grievance process to resolve issues with an employer, including supervisors. All grievances are filed against the employer, not against another HEU member.

**Question:** Is it possible for me to become a shop steward or local officer?

**Answer:** Yes. The union encourages all of our members to become active in the local. Some HEU supervisors have found they enhance their advocacy skills by becoming shop stewards. As a shop steward, you will learn more about the collective agreement and be in a better position to assist fellow HEU members.



## PART TWELVE

# Evaluations

A performance evaluation, or appraisal, can be a useful way to give positive and constructive feedback to employees.

The process of evaluating employees varies greatly from one workplace to another and even from one department to another in the same workplace. Regardless of the exact process, it is ultimately the employer's responsibility to do performance evaluations.

In the Facilities Collective Agreement, evaluation language is set out in *Article 12.01 – Evaluation Reports*. Other provisions might apply, for example *Article 9.03.03 – Removal of Disciplinary Documents*.

The glossary in the *Classification Manual* of the Facilities Collective Agreement states:

*“Supervision may include ... providing input into ... employee evaluations ...”*

It is HEU's position that “input” does not mean signing the evaluation form. That is the employer's responsibility.

As a supervisor, you may be required or directed by the employer to present the evaluation to HEU members. In this case, you can ensure the members are as comfortable as possible with the evaluation process by advising them of their rights under the collective agreement.

## **Employee rights in evaluations:**

### **Under the facilities collective agreement:**

1. Any employee has the right to receive a copy of the evaluation to read and review for seven (7) calendar days before signing.
2. The form must provide for the employee's signature in two (2) places. One place indicates that the employee has read and accepts the evaluation; the other place indicates that the employee disagrees with the evaluation.

3. Advise the employee to review both copies of the evaluation (theirs and the original) before signing. If there are any blank lines on the original, they may wish to cross them out before signing.
4. The employee has the right to grieve the evaluation, but only if they have signed in the place that indicates disagreement (see Article 12.01.)
5. An official evaluation report becomes part of the employee's permanent record, so it is important to ensure that the seven-day review process is followed as outlined in the collective agreement.

During the seven-day review period, an employee in your department may approach you to discuss why they disagree with the evaluation. Listen carefully to what they say. It may be possible to ask management to revise the evaluation to everyone's satisfaction before the employee signs.

Harmony in the department may be best served by revising the evaluation rather than by forcing the employee to go through the grievance procedure to achieve the same result.

The evaluation process should not become a power struggle, and performance evaluations should not be used as an alternate discipline mechanism. Ideally, evaluations can be a positive experience and an opportunity to develop better understanding in the department.

The process can also be used to develop joint objectives, including the provision of employer-funded training for employee development.

## **Q&A**

**Question: What advice should I give to HEU members who disagree with an evaluation?**

**Answer:** Advise them of their rights under Article 12.01 and Article 9.03.03 (see points listed above).

**Question: What should I do if the employer requests that I evaluate other HEU members?**

**Answer:** Agree to give input as outlined in the *Classification Manual* of the collective agreement. Talk to an HEU shop steward or staff representative for further advice.

**Question: What can make an employee believe that they have been unfairly evaluated?**

**Answer:** Employees can feel unfairly judged when the evaluation includes comments that are personal or are unrelated to their work performance; evaluations should avoid such comments. As well, certain words on an evaluation can trigger strong feelings in people based on previous experiences with teachers, parents or other managers.



## PART THIRTEEN

# Bumping

HEU supervisors should try to be supportive of workers who are going through the bumping process. Tensions can arise when people are uncertain about who will be displaced (bumped) and whether or not new workers will be joining the department. If you become aware of members blaming each other for the disruption, remind them that it is not the displaced worker who initiated the changes.

If an employee's job is eliminated, there are a range of options available to them which are outlined in the Facilities Collective Agreement. For example, *Article 17 – Technological, Automation and Other Changes* and *Article 14.02 – Qualifying Period*.

One of the available options may be to bump into another position. Under the Facilities Collective Agreement *Article 17.04 – Bumping*, the entitlement to "transfer to a job in line with seniority" means the right to "bump" into a job occupied by a junior employee. The employee who is "bumped" also has bumping rights.

While supporting the displaced worker's right to bump, you can also ensure they are fully aware of all their other options as soon as possible. Refer them to HEU's local executive or shop steward for further clarification.

If an HEU member bumps into your area or department, they are entitled to be properly oriented to the position. A supportive orientation process is critical to the worker's ability to succeed in new circumstances. Welcome them into your area, and encourage other workers to do the same.

Any member who bumps into a new position *will serve* a three-month "qualifying period" under Article 14.02 of the Facilities Collective Agreement. During this time, the worker may choose to be relieved of the new job, and/or the employer may find the worker unsuitable (unsatisfactory) in the new job.

## Bumping explained:

A worker will be served displacement notice at a meeting with the manager, Human Resources Advisor, and union steward. They will receive a full seniority list and relevant documents. They will have seven days to identify a job, in which they are qualified and capable to perform, and wish to bump into. *For more details, review Facilities Collective Agreement, Articles 17 and 14.*

There are different rules for employees with more than seven years' seniority and under seven years' seniority. For the specific procedure, refer to Article 17.04. *Note: employees are entitled to bump into their own departments, provided they are qualified and capable.*



## PART FOURTEEN

# Scheduling

The scheduling provisions of the collective agreement are written to be fair for all HEU members, based on seniority. By carefully following the collective agreement, you can create consistency in scheduling.

In the Facilities Collective Agreement, scheduling provisions are set out in *Article 19 – Scheduling Provisions*, *Article 20 – Hours of Work*, and *Article 21 – Overtime*. Other provisions may apply, for example, Article 16.01(c), discussed below.

The employer may make rotation changes which may trigger the Job Fair language. This language may be found at Article 19.02. Contact your HEU representative if you need assistance.

Scheduling can be a complex task. If you have questions or concerns, consult the resource people available to you, such as HEU shop stewards and local executive members.

Extended hours are an option and must be brought forward by members and not by the employer. The HEU representative can provide information and forms. Extended hours applications must be approved by the HEU director and by the health authority.

An HEU supervisor with responsibilities for scheduling should be familiar with certain articles of the collective agreement.

For example, Article 16.01(c) allows regular full-time and part-time employees to relieve other employees in unposted vacancies of less than 90 calendar days. This allows a worker to fill in for a co-worker's vacation period, leave of absence (LOA), illness or other leave of less than three months. The employee must indicate in writing their desire to work in a certain position, and the request should be granted by seniority whenever possible.

New language in 2019 made seniority mandatory in all overtime call-outs under Article 21.12 in health authority sites. Affiliate sites have slightly different language and may have different practices.

Part-time employees also have the right to register for additional work under Section 16 of the *Casual Employees Addendum*. If the additional work does not conflict with their regular schedule, they will be offered the work based on seniority. If the vacancy to be filled is longer than four (4) days, the part-time employee has the option to be relieved of their regular schedule to accept the block of work even if the vacancy does conflict with the part-time worker's regular schedule. Part-time employees registered under Section 16 of the *Casual Employees Addendum* must be called in the same manner as casuals although their status remains part-time (e.g. in order of seniority).

The *Casual Employees Addendum* (pages 74 to 78 of the Facilities Collective Agreement) outlines the system for offering relief work to casuals. Casuals are employees who are not regularly scheduled. In general, casuals should only be called in to relieve a regular employee who is absent from work or for extreme cases of workload.

## **Q&A**

**Question:** Can a part-time employee who has accepted a temporary assignment under 16.01(c) also accept a casual shift that would be in conflict with the temporary assignment?

**Answer:** No. By accepting the temporary assignment, the part-time employee is not available for the casual shift that is in conflict.

**Question:** Can a part-time employee who has accepted a casual shift also accept a temporary assignment that would be in conflict with the casual shift?

**Answer:** No. As above, by accepting the casual shift, the part-time employee is unavailable for the temporary assignment.



## PART FIFTEEN

# Training and Orientation

Some HEU supervisors have responsibility for determining and/or carrying out training and orientation in their departments. Check your job description to clarify your level of responsibility in this area.

*The Classification Manual of the Health Services & Support Facilities Subsector Collective Agreement states that: "Supervision may include...maintaining departmental standards and procedures."*

If this is part of your responsibility, it is important to ensure the procedures are up-to-date.

**People learn in a variety of different ways. Studies have shown that the percentage of what we retain is often determined by the method of training. Estimates are that people retain:**

- 20 per cent of what they hear only;
- 30 per cent of what they see only;
- 50 per cent of what they hear and see;
- 70 per cent of what they hear, see and discuss, and
- 90 per cent of what they hear, see, discuss and do.

If the person you are training or orienting is not retaining the information, try another way of giving them an opportunity to practise the skill. You can also give the worker supportive and reassuring comments, which will help them relax and learn more easily.

Learning is enhanced if the experience is satisfying for all involved. For you to have a positive experience as a trainer, there must be enough time allotted for the training process. If training creates a workload problem for you, it will be impossible to do a good job.

**The learner's satisfaction can be increased if you:**

- give immediate recognition for achievement, and
- provide the learner with knowledge of their progress.

Most people can concentrate on only one stimulus at a time, particularly when learning something new. Therefore, anything that may distract attention should be avoided, if possible. Physical surroundings can be distracting, as can an attempt to teach more than one thing at a time.

## **Supervisors' role in training:**

The supervisor provides necessary training and orientation to ensure the worker can understand and meet the expectations of the position. Policies and procedures should be up-to-date, easily accessible, and in plain language.

During the three-month qualifying period of a new position, or three-month probationary period for new hires in regular positions, or 488 hours in the case of a casual worker, it is the employer's responsibility to ensure the employee has been given every opportunity to understand and fulfill the job requirements.

While probation periods may be extended in certain circumstances, qualifying periods may not be extended.

Under the Facilities Collective Agreement, workers, including casuals, may access funds for short-term courses to enhance their abilities at work or long-term studies for career changes. The FBA Education Fund was established in the 2006 round of bargaining, and thousands of HEU members have benefited from it. More information can be found at [heu.org](http://heu.org) under the Education section.



## PART SIXTEEN

# Resources

### Human rights-based harassment:

For issues of harassment because of a person's race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, age, or because the person has been convicted of a criminal or summary conviction offence that's unrelated to the employment or intended employment of that person, or other reasons listed in the *Human Rights Code*, please follow this process:

If the complaint is against another HEU member, contact investigator **Ana Mohammed** at [ana.mohammed@shaw.ca](mailto:ana.mohammed@shaw.ca).

If the complaint is against someone who is not an HEU member, including management, contact investigator **Joy Bischoff** ([joybischoff@telus.net](mailto:joybischoff@telus.net) or **604-676-1574**) or **Gwen Brodsky** (**604-874-9211**).

### Resources you should have:

- Collective agreement (download at [heu.org/collective-agreements](http://heu.org/collective-agreements));
- HEU *Constitution and By-Laws* (available from your HEU local executive and at [heu.org/collective-agreements](http://heu.org/collective-agreements)); and
- WorkSafeBC's *Occupational Health and Safety Regulation* (available at your work site and [worksafebc.com](http://worksafebc.com)).

## **Heu.org**

A wealth of material is available at [heu.org](http://heu.org), including collective agreements, updates, forms, videos, and other tools and resources.

### **Valuable “resource people” to get to know:**

- Local executive members;
- Shop stewards;
- HEU members of the Occupational Health and Safety Committee, and
- HEU servicing representative(s).

### **Further educational opportunities:**

You are encouraged to take advantage of HEU’s educational programs. Watch the local HEU bulletin board for educational opportunities, such as shop steward courses, occupational health and safety workshops, or HEU leadership schools. Ask your local secretary-treasurer for application forms when you see a course that interests you. Enrolment is limited.

Registration fees – up to an annual maximum of \$350 – will be paid for labour studies courses at various colleges or for labour council weekend schools.

More information is available at [heu.org/education](http://heu.org/education).



## PART SEVENTEEN

# Contact Us

### **Provincial Office**

5000 North Fraser Way  
Burnaby, B.C. V5J 5M3  
Toll-free: 1-800-663-5813  
Fax: 604-739-1510

The Provincial Office is located on the traditional territories of the Squamish, Musqueam, and Tsleil-Waututh Nations.

### **Okanagan Office**

250-1815 Kirschner Road  
Kelowna, B.C. V1Y 4N7  
Toll-free: 1-800-219-9699  
Fax: 1-250-765-0181

Kelowna is located on the traditional territory of the Syilx/Okanagan people.

### **Kootenay Office**

745 Baker Street  
Nelson, B.C. V1L 4J5  
Toll-free: 1-800-437-9877  
Fax: 1-250-352-6999

Nelson is located on the traditional territory of the Ktunaxa, the Sinixt, and the Syilx peoples.

### **Online Platforms**

-  [heu.org](http://heu.org)
-  Hospital Employees' Union
-  @HospEmpUnion
-  heu\_in\_bc

### **Northern Office**

1197 Third Avenue  
Prince George, B.C. V2L 3E4  
Toll-free: 1-800-663-6539  
Fax: 1-250-562-3645

Prince George is located on traditional territory of the Lheidli T'enneh First Nation.

### **Vancouver Island Office**

201-780 Tolmie Avenue  
Victoria, B.C. V8X 3W4  
Toll-free: 1-800-742-8001  
Fax: 1-250-480-0544

Victoria is located on the traditional territory of the Songhees Nation.

### **Vancouver Island - Comox Office**

6-204 North Island Highway  
Courtenay, B.C. V9M 1C7  
Toll-free: 1-800-624-9940  
Fax: 1-250-331-0673

Comox is located on the traditional territory of the K'omoks First Nation.

### **Email**

-  [heu@heu.org](mailto:heu@heu.org)