

UNION MATTERS

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*My local works
because I participate*

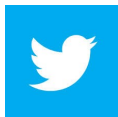
Date and time of
General Membership
meetings are posted
at each worksite and
at www.cupe1169.ca

“Leadership is based
on inspiration, not
domination;
on cooperation, not
intimidation.”

~William Arthur Ward~



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President's Podium

Exercise Your Rights in the Workplace

Have you been told by a supervisor or your workplace managers “do not go to the union with this.”? If this or a similar comment has been directed to you or you have observed a colleague being on the receiving end of this type of comment, you must go to your union.

All matters related to how you are treated by persons in authority are defined by your rights to union representation. As a member of Canadian Union of Public Employees (CUPE) Local 1169 your Collective Bargaining Agreement (CBA) contains language describing your right to union representation in all matters of discipline addressing both the strength and scope of your union's authority and is protected under due process.

What is Due Process?

The principle of due process is a fundamental concept under our Canadian justice system and is solidly established within the area of administrative law. Due process is recognized in the workplace with your CBA giving meaning and substance to that right. Due process is described as penetrating “to the heart of the relationship of the employer and the employee.”¹ When the employer is collecting evidence and dealing with our members alleged misconduct the employer's methods must be consistent with notions of fairness. If the employer's methods of collecting evidence are deemed to be unfair the process will be compromised and will lead to the discipline being overturned if a grievance is filed.

In a leading case of Hickson-Langs Supply Co.² the arbitrator Burkett stated: *“These safeguards are in the nature of contractual due process. While it may seem unfair to the employer to have its actions found to have been null and void, the due process provisions are central to the representation provided under the collective agreement and, in our view, there is no other way to give real meaning to them.”*

What Does This Mean?

Arbitrator Burkett's statement means that the employer must take your rights as a member of CUPE Local 1169 to union representation seriously. Consequently, for any disciplinary action to be overturned it will be the result of two things; failure of the employer to respect representational rights, and failure to abide by the CBA.

Your Negotiated Rights

Article 6.12 clearly outlines our members' rights to union representation when members are receiving either a verbal warning or discipline as a matter of record. This right to union representation is inclusive to times when you are interviewed for allegations of misconduct, including any meetings where discipline is imposed. When the discipline is formal, management must provide written details of the discipline, give a minimum of 48 hours' notice of when you are to be disciplined, and inform the union of this intended disciplinary hearing.



Impact of Non-Compliance

Should the employer abuse your rights to representation, it is likely that following the filing of a grievance the discipline will be overturned. The purpose of having union representation is to provide our members with, council and support, assistance in explaining the circumstances surrounded the alleged misconduct, speaking on behalf of our members, and negotiating with management for a quantum of discipline as minimal as management is willing to agree to. These actions are the fundamental purpose of such representational rights.

When our members have been directed to attend a disciplinary meeting, whether a verbal or a formal meeting, it is a very anxious time and our members are emotionally vulnerable and will often find they are incapable of properly representing themselves.

Your CBA provides you with the right to union representation in all disciplinary hearings, to provide council in explaining the outcome of the alleged misconduct, and to ensure any investiga-

tion is conducted in a fair and consistent manner according to the CBA. That is one of the fundamental purposes of having language in the CBA which addresses representational rights.

The protection of the rights of members of the bargaining unit provides a constructive and useful platform for both parties in the establishment of a harmonious relationship between the employer and the union.

Remember if you or one of your colleagues has been instructed not to go to your union, ask yourself why? You have rights, so contact your union and don't succumb to bullying or intimidation intended to keep you quiet!

¹York University (Day Grievance), unreported, December 3, 1974 (O'Shea)
²Hickeson-Lang Supply Co. (1985), 19 L.A.C. (3d) 379 (Burkett)

*In solidarity,
Rh'ena Oake, President CUPE Local 1169
Calgary and Cochrane Public Library Workers*

Contract Corner: know your rights under the collective agreement



Article 6.12 - Warnings and Discipline

b) When an employee is to receive a verbal warning, the employee shall have the right to have a Union representative present.

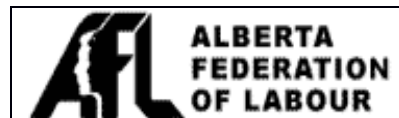
c) When an employee is disciplined and the discipline is to be a matter of record, the employee shall be given written particulars stating the reason for the action and outlining the terms of penalty (where applicable). The employee has the right to have an authorized representative of CUPE Local 1169 present. Management will notify the Union giving forty-eight (48) hours' notice when an employee is to be disciplined and such discipline is to be a matter of record.

What does this mean?

CUPE Local 1169 members have the right to representation at **any** disciplinary meeting. By the way, PREP meetings are not disciplinary. Your manager **cannot** ask you to attend a meeting about your performance without giving you 48 hours' notice of that meeting. Your manager is obligated to inform you as to the nature of the meeting and why you are being called in. Human Resources will inform the Union of the meeting and ensure that a CUPE Local 1169 representative will attend; however, you should call the union office to confirm this. If the meeting is to take place outside of your regular work hours, your manager **must** pay you a minimum of three hours. CUPE Local 1169 is your union and will be there for you. Contact the union office if you have any questions about warnings and disciplines.

*Respectfully submitted by,
Terrill Budd, Vice President CUPE Local 1169*

CUPE LOCAL 1169 AFFILIATES



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