Workplace Problem Solving Routes for PSAC Members

Problem 1	**Interpretation or Application of C.A.** **Discipline resulting in financial penalty including termination**	
Jurisdiction	All	
Right	Collective agreement PSLRA Canada Labour Code Provincial- territorial codes	
Method of Resolution	Grievance	ICMS or ADR (alternate dispute resolution)
Process	Adjudication – arbitration	
Notes	Appeal to the Federal Court of Appeal possible only when there is a question of law. Given C-4, members covered by the PSLRA must now have union approval and representation to file grievances related to discipline or termination.	Mediation is not always an appropriate tool when dealing with conflict over interpretation of the collective agreement.

Problem 2	**Labour Relations Problems (employer action or inaction) on issues not covered by the collective agreement**		
Jurisdiction	All		
Right	PSLRA Provincial Labour Codes (Ontario & Québec)		
Method of Resolution	ICMS – Informal conflict management system (for FPS) UMC (Union Management Consultation)	Grievance process	Complaint to Provincial Labour Board
Process	ICMS process	Grievance process	
Notes	Members are not limited to grievances on items covered in the collective agreement. They can also grieve employer actions or inactions on other workplace issues but these grievances do not necessarily go to adjudication or arbitration.		

Problem 3	**Employer Policy (not covered by the collective agreement)**	
Jurisdiction	All	
Right	Related to working conditions that are not covered in the collective agreement	
Method of Resolution	Consultation	Grievance
Process	UMC	Grievance
Notes		For PSLRA Units, union approval and representation is required to file a grievance on these matters. These grievances are not usually referred to adjudication.

Problem 4	**Discrimination (Harassment linked to a prohibited ground)**		
Jurisdiction	All jurisdictions		
Right	• Human rights legislation • Collective agreement (no discrimination article) • Employer policy (e.g. Duty to Accommodate)		
Method of Resolution	Mediation	Complaint (with applicable human rights commissions)	Grievance
Process	Mediation	See applicable Human Rights Commission websites for complaint process details.	Grievance Arbitration & Adjudication
Notes		With C-4, **PSLRA Units** will no longer be able to file a human rights complaint with the CHCR.	**For PSLRA Units**, a human rights grievance will be the only recourse option. These grievances won't need union approval or representation. The time limit to file a human rights grievance will be extended to one year. Grievance should be directed against the employer for failure to provide a harassment free environment. Consult the PSAC Policy on Union Representation: Workplace Harassment. Most Human Rights Commissions will put the

			complaint in abeyance until the grievance process is exhausted. There is a higher onus on the duty of fair representation when dealing with a disability involving addictions or mental health.

Problem 5	**Personal or Psychological Harassment / Violence in the Workplace**	
Jurisdiction	Canada Labour Code Part II and Part XX of the Canada OSH Regulations)	Québec: Labour legislation
Right	Canada Labour Code and Part XX of the Canada OHS Regulations)	• Québec: protection against psychological harassment included in labour standards • Employer Harassment Policy • Collective agreement (if there is provision for personal harassment in the CA)
Method of Resolution	Complaint to a "competent person" as defined in Part XX of the Canada OHS Regulations	Grievance (related to leave provisions)
Process	Right to refuse unsafe work (under very limited circumstances) Absence of a specific investi-gative process in the workplace is a violation of Part II of the Canada Labour Code and	Québec: complaint to the Labour Standards Commission Employer investigation of allegation of personal harassment

	subject to a complaint under section 127.1 of the Code.	
Notes	Part XX of the Regulations requires employers to develop a violence prevention policy; identify and assess contributing factors to workplace violence; establish controls and prevention measures; establish an investigation process; ensure employee education and have an Occupational Safety and Health Committee (OSH)	

Problem 6	**Staffing**
Jurisdiction	TB
Right	PSEA
Method of Resolution	Informal Discussions Complaint to PSST (Public Service Staffing Tribunal)
Process	Mediation or PSST tribunal hearing
Notes	Abuse of authority is the only ground on which to challenge staffing under the PSEA Note: C-4 will merge the PSLRB and the PSST (for administrative purposes) into the PSLREB (Public Service Labour Relations and Employment Board).

Problem 7	**Staffing**

Jurisdiction	All other	
Right	Employer policy Collective agreement if staffing is negotiated (e.g. Canada Post)	
Method of Resolution	Complaint UMC	Grievance
Process	ICMS or ADR Process	Grievance Process
Notes		

Problem 8	**Classification**		
Jurisdiction	TBS	Other employers if staffing is negotiated	Employers who have staffing policies
Right	FAA (Financial Administration Act) PSEA	Collective agreement job description article	UMC Mediation
Method of Resolution	Classification grievance		

Process	• Update of job description and grievance of not provided • Job evaluation with classification standard • Grievance		
Notes	Employer has the final decision in classification disputes		

Problem 9	Workforce Adjustment		
Jurisdiction	TB		
Right	• Right for Union to be consulted • Re-hiring of a non-indeterminate employee during a WFA process	• Employer refusal to offer re-training opportunities • Employer failure to explain why no guarantee of a reasonable job offer • Employer refusal to consider alternations	• Abuse of authority or favouritism in the SERLO (merit assessment process
Method of Resolution	UMC Policy Grievance	Individual Grievance	Complaint to the Public Service Staffing Tribunal
Process			
Notes	The PSAC won a policy grievance in April 2013 before the Public Service Labour Relations Board. The decision strengthens the obligations of the employer to establish an effective alternation system. Given C-4 changes, a policy grievance will only be possible if the matter cannot be the subject of an individual grievance. The PSST will be merged with the PSLRB to form the PSLREB (Public Service Labour Relations and Employment Board).		

Problem 10	**Work injury**	
Jurisdiction	Provincial	
Right	Ontario: WSIB (Workplace Safety and Insurance Board)	Québec: CSST (Commission de la santé et de la sécurité au travail du Québec)
Method of Resolution	Filing a claim	Filing a claim
Process	1. Revision by a eligibility adjudicator 2. Oral or written submission at appeals resolution officer level 3. Appeals tribunal	1. Revision of initial decision 2. Administrative review – Commission des lesions professionnelles (CLP)
Notes	• Notice of objection must be in writing • Six (6) month time limit for the 2 levels of appeal	• Written letter to CSST • 30 days to appeal initial decision • 45 days to the CLP

Problem 11	Return to work
Jurisdiction	All
Right	• Federal: GECA (Government Employees Compensation Act) • WSIB or CSST • CHRA • Collective Agreement (under no discrimination article)
Method of Resolution	• May require return to work mediation • Grievance • Complaint
Process	• Duty to accommodate process • Return to work committee • Occupational Safety & Health Committee (OSH) • Human Rights related grievance or complaint if accommodation denied
Notes	Given C-4, PSLRA Units will no longer be able to file human rights grievances with the CHRC. The only human rights recourse will be a grievance. Grievance time limits in human rights situations will be extended to one year. Union approval or representation will not be required for human rights grievances.

Problem 12	**Dental /Travel / Clothing Policy/ Allowance and other items covered by the National Joint Council**
Jurisdiction	For employers under the NJC (National Joint Council)
Right	Negotiated NJC Policy (these are listed in the collective agreement)
Method of Resolution	NJC grievance procedure
Process	Grievance heard by Departmental NJC Representative or the final level of the NJC Committee for some topics
Notes	This only applies to NJC negotiated policies