

UNION LETTERHEAD

THE UNION'S DUTY OF FAIR REPRESENTATION

WHEN A CO-WORKER COMES TO YOU WITH A CONCERN, IT'S IMPORTANT TO KEEP IN MIND THE UNION'S DUTY OF FAIR REPRESENTATION.

ACCORDING TO SECTION 12 OF THE *LABOUR RELATIONS CODE*, A UNION MUST NOT ACT IN **BAD FAITH OR IN AN ARBITRARY OR DISCRIMINATORY** MANNER IN REPRESENTING AN EMPLOYEE IN THE BARGAINING UNIT. THIS APPLIES BOTH IN THE COURSE OF NEGOTIATIONS AND IN THE ADMINISTRATION OF THE COLLECTIVE AGREEMENT, AND APPLIES REGARDLESS OF WHETHER THE EMPLOYEE IS A MEMBER OF THE UNION OR NOT.

THE UNION MAY BE RESPONSIBLE FOR YOUR ACTIONS AS AN ELECTED UNION REPRESENTATIVE. THIS MEANS THAT IF YOU DON'T FULFILL THE DUTY OF FAIR REPRESENTATION, THE UNION COULD BE LIABLE.

ARBITRARY: Failing to respond to a coworkers concerns, or responding to his or her concerns carelessly would mean that the Union was acting in an *arbitrary* manner. **If a bargaining unit member has a concern, the Union has an obligation to thoroughly investigate it, taking into consideration the various and conflicting factors and to come to a reasoned conclusion as to what the Union should do about it.**

DISCRIMINATORY: The Union would be discriminatory if it treated one bargaining unit member differently from another unit member in the same circumstances. The Union cannot discriminate between employees on factors such as race or sex, or on the basis of personal favoritism. If the Union treats employees in similar circumstances differently, it must have an acceptable reason as to why it did so, and an explanation as to how that different treatment is fair.

BAD FAITH: Bargaining unit members have the right to have their concerns addressed by the Union in a manner which is honest and free from any personal animosity or ulterior motive (such as political revenge or personal advancement). This means that your decisions about how to address a concern cannot be based on the fact that you don't like the person raising that concern; nor can your decisions be based on your wish to achieve some personal gain.

LABOUR RELATIONS CODE – SECTION 12 DUTY OF FAIR REPRESENTATION

- 12(1) A trade union or council of trade unions must not act in a manner that is **arbitrary, discriminatory or in bad faith**
- (a) in representing any of the employees in an appropriate bargaining unit, or
 - (b) in the referral of persons to employment
- whether or not the employees or persons are members of the trade union or a constituent union of the council of trade unions.

In **Zawada (Re)**, BCLRB Letter Decision No. B77/96 (Leave for Reconsideration of BCLRB No. B305/95), the Labour Relations Board found that “. . . a union officer's actions are inherently those of the union . . . A union can only act through its representatives. In any situation involving union members, an elected representative cannot sidestep the duty to its members . . .”

**IF YOU ARE IN DOUBT, OR IF YOU HAVE A QUESTION, DON'T TAKE THE RISK,
CALL THE UNION OFFICE AND SPEAK TO A REPRESENTATIVE**

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