

MAINTENANCE OF THE CLASSIFICATION PLAN, APPEAL HEARINGS AND RECLASS CHALLENGE PROCESS

**AS PER THE
PS/GE COLLECTIVE BARGAINING AGREEMENT
SEPTEMBER 1, 2016 TO SEPTEMBER 30, 2022**

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Saskatchewan 

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**LETTER OF UNDERSTANDING
#98-12
MAINTENANCE OF THE CLASSIFICATION PLAN**

SECTION A: MAINTENANCE OF THE CLASS PLAN

Whereas the parties to this agreement are committed to the principle of equal pay for work of equal value job evaluation and recognize that systemic discrimination may occur in the process of evaluating jobs, the parties mutually commit to the following purposes, principles and values in relation to the maintenance of the joint equal pay for work of equal value job evaluation plan:

A. Definitions

Equal pay for work of equal value is deemed to be achieved when the employer adjusts its compensation practices so that all employees are assigned to a schedule of pay with the same maximum hourly rate of pay as other employees performing work of equal, or comparable value.

"Comparable value" means a range of points within a point rating job evaluation plan that is determined, through a joint union management process, to be worth the same maximum hourly rate of pay.

Comparable value is determined through the composite of factors in the plan which measure skill, effort, responsibility and working conditions. These factors are written such that their content does not incorporate gender, or other bias.

"Job Evaluation Plan", or classification plan for the purpose of this agreement shall mean the job evaluation plan for employees within the SGEU/PSGE Bargaining Unit.

"Commission" means the Public Service Commission.

"Employee" as defined in the collective agreement.

"Comparative descriptions" are practical examples of work which provide the standards for how the level definitions within each job evaluation factor are to be interpreted and applied.

B. Purposes

1. To provide equitable, service-wide classification treatment within the bargaining unit;
2. To evaluate jobs, not people, nor performance;
3. To ensure compliance with relevant government legislation and policy.

C. Principles and values

1. Equal pay for work of equal or comparable value:
 - Job evaluation factors established measure skill, effort, responsibility, and working conditions.
 - Factors are generic, capable of measuring all aspects of work, do not measure occupational-specific aspects of work, and are applied to all jobs in the bargaining unit.
 - Degree definitions in the factors measure significant differences in work.
 - Traditionally undervalued characteristics of work are made visible through the comparative descriptions.
 - Persons evaluating jobs be trained in bias awareness and proper application of the plan.
 - Persons evaluating jobs must not have a vested interest in the outcome.

2. Employment rights:
 - Employees have a right to know what their duties and responsibilities are and what the corresponding salary range is for that set of duties.
 - The employer has the right to assign duties and responsibilities to ensure the mandate of the organization is achieved.
 - In the event of changes in duties and responsibilities the employee has a right to know how their job is affected and permanent employees have a right to request a review of such changes.

3. The right to due process:
 - Job evaluation factors and comparative descriptions will be available on the Public Service Commission website.
 - Appeal mechanisms shall exist to examine, substantiate, authenticate and adjudicate decisions and shall function in a manner that maintains the integrity of the job evaluation plan.
 - Bias is addressed through consistent plan application, consultant and appeal panel education, removal of vested interest decision-making, maintaining up-to-date comparative descriptions and notes to raters and through disclosure of rationale.
 - Processes established in this regard work towards:
 - Clarity in job assignments.
 - Integrity in describing work.

D. No Discrimination

In the application of the classification plan, there is no discrimination in pay where a pay difference is the result of:

1. A temporary training, or development assignment which is equally available to male and female employees and leads to career advancement for those involved in the program, or assignment.

2. Any personnel practice where a job is downgraded and the incumbent retains a rate above maximum of the newly assigned range.

3. A skills shortage that is causing inflation in pay for an occupation because the employer is encountering difficulties in recruiting and/or retaining employees with the requisite skills.
4. Changes in job assignments.

E. Maintenance Committee

1. The parties will maintain a joint union-management class plan committee, members to serve a minimum of two (2) year terms; ½ of the committee shall be replaced every 2 years.
2. The composition of this committee shall be:
 - 50% women and 50% men; 50% union and 50% management, selected by their respective party.
 - A minimum of three (3) members of the PS/GE and three (3) members of management chosen by their respective parties, including one (1) representative from the **Total Rewards** Branch and one (1) staff representative of the SGEU.
3. This committee shall be co-chaired by a member of the SGEU and by the Public Service Commission Classification representative.
4. This committee shall operate by consensus; the committee shall meet a minimum of twice annually.
5. The members of this committee shall be trained in equal pay for work of equal value principles.
6. That the role and authority of this committee shall be:
 - a. To jointly approve job description forms.
 - b. To develop and maintain an educational program regarding the principles of the plan.
 - c. To maintain the Notes to Raters through addition, or deletion of content.
 - d. To require a sample of classification decisions for audit by the Commission. The committee shall determine what process is to be used for this audit. The result of the audit shall be reported to the Committee.
 - e. The Committee shall have the authority to establish and change the roles and authorities of the appeal panels from time to time, as required. Any such change shall be in accordance with the principles and values herein stated.
 - f. To determine the structure and function of the Joint Classification Appeal Panels and the training required for its members, conflict of interest guidelines and audit of Classification Joint Council decisions for consistency in plan application.

F. Authority to Classify

Prior to being authorized to independently classify jobs, persons performing job evaluation duties will complete a training program established by the Staffing and Classification Solutions Branch, Public Service Commission, and demonstrate practical competence in application of the plan.

Only persons approved by the Public Service Commission shall be authorized to sign off the classification level of any job within the plan. Such persons shall have the authority to ascertain the

duties and responsibilities of any job within the bargaining unit and allocate it within the job evaluation plan.

G. Policies

Factors:

- The *Notes to Raters* are to be applied when evaluating jobs. Classification decisions established in violation of *Notes to Raters* are considered to be in error and shall be re-evaluated.
- Errors in application of factors are not precedent setting.

Comparative Descriptions:

Comparative descriptions may be deleted from the plan, added to the plan, or modified through joint agreement and through joint process at any time.

- The ratings of comparative descriptions cannot be changed or adjusted, except by the Joint Plan Maintenance Committee.
- Comparative descriptions are the only allowable position comparisons for appeal hearings.

SECTION B - CLASSIFICATION JOINT COUNCIL APPEAL HEARINGS

The following outline of roles, policies and procedures is for the purpose of ensuring the integrity of the job evaluation plan, the integrity of the information presented and to ensure clarity in roles, authorities and responsibilities of persons attending appeal hearings.

A. Right to Appeal

Permanent employees may appeal the classification decision resulting from a request for a classification review to a Joint Union-Management Appeal Panel, called Classification Joint Council **in accordance with Article 5.5) of the PS/GE Bargaining Agreement.**

B. Appealing a Decision

1. An employee can initiate an appeal in accordance with Article 5.5 of the Collective Agreement and must provide written rationale within ninety (90) calendar days from the date the appellant receives the appeal acknowledgement. Written rationale, validated by management, must be submitted before an appeal is scheduled.
2. The consultant will determine if the appellant's rationale is sufficient justification for a higher rating. If it is not, the consultant will have sixty (60) calendar days from receipt of the appellant's rationale to respond and provide rationale in writing.
3. Following receipt of the consultant's written rationale, the appellant will have fifteen (15) calendar days to communicate, in writing, her decision to proceed to a formal appeal hearing or to withdraw some or all of the appealed factors. Should a decision not be received within that timeframe, the appeal shall be considered withdrawn.

4. If an employee decides to proceed to a formal appeal hearing, as above, the Appeals Coordinator shall schedule a formal appeal hearing and notify the appellant(s), the consultant and the Union, of the date, time and place of the sitting of the Classification Joint Council.
5. Only appealed factors are subject to review.
6. Notwithstanding the timelines, at any point in the appeal process, the consultant can change a rating decision if a change is warranted after new information comes to light.

C. Purpose of the Appeal Hearing

To examine, substantiate, authenticate and adjudicate evidence as to whether appealed factor ratings are appropriate, relative to the full intent of the factor degree definitions. 200

D. Composition of Classification Joint Council

1. For the purpose of review of classification in the SGEU Class Plan, Classification Joint Council shall consist of four (4) members, equally split between union and management.
2. A quorum shall consist of three (3) members, subject to the approval of the minority party (either the SGEU or PSC designate) and all occupations must be adjudicated by equal or better female representation.

E. Conflict of Interest by Classification Joint Council Members

1. Members of a Classification Joint Council must exempt themselves from a council, or committee prior to the hearing, where a conflict of interest may exist.
2. Conflict of interest shall be deemed to exist where the council or committee member could gain, or could be perceived to gain from a decision, or is in a representational conflict of interest.
3. Conflict of interest includes, but is not limited to, classification decisions on jobs:
 - In their work unit;
 - In their occupation, as defined by the Commission, if necessary;
 - Of employees within the same facility;
 - Encumbered by family members, or personal friends;
 - For which they have declared a bias for, or against; or
 - For which they are the elected, or acting steward, or the immediate supervisor.

F. Role and Authority of Classification Joint Council

1. To uphold the integrity of the job evaluation plan through the adjudication of disputes regarding the assignment of factor ratings to the job assignment. In this regard, management members of Classification Joint Council do not represent, nor advocate for management or the Public Service Commission and the union members do not represent, or advocate for the appellant.

2. To select a Chair prior to calling the appellants, consultant, witnesses and observers, into the hearing room.
3. To question evidence presented to determine if it meets the requirements in the Notes to Raters and the full intent of the degree definition within the factor.
4. Where necessary, to ensure that evidence presented is verified as legitimate duties and responsibilities of the job assignment. It is not the role of Classification Joint Council to adjudicate disputes of job content.
5. To examine evidence through comparison to CD ratings by ensuring the full CD content on the appealed factor is examined in relation to the appealed duties and responsibilities and the full intent of the factors.
6. Council shall consider only the duties and responsibilities of the position as of the effective date of the request and shall not take into consideration subsequent changes that have taken place.
7. A factor rating cannot be adjusted if the duties or responsibilities have been credited in another factor, as this would represent bias due to double crediting.
8. To recommend confirmation of the factor rating, or a higher or lower rating, based upon the authorized job description form and to document the rationale supporting that decision.

G. Role of the Chair of Classification Joint Council

1. To excuse any person whose behaviour is inappropriate.
2. To ensure that the question period does not become a discussion. This is to be question and response, both without interruption.
3. To ensure the hearing is run in an expeditious manner and move the hearing along in the event that information is repetitious, or not relevant to the factor under appeal. The Chair must focus the presentation on information relevant to the factor under appeal and may limit the length of question and answer period on the factor and request that Classification Joint Council take breaks after a certain length of time.
4. In the event that an appeal hearing is running longer than scheduled and the appellants for the next scheduled hearing are waiting, to stop the proceedings and indicate how long the wait might be.

H. Training

No person shall act as Classification Joint Council member without training, as deemed adequate by the Joint Class Plan Maintenance Committee.

I. Role of the Public Service Commission – Human Resources Consultant

1. In this process, the consultant has the authority to obtain information through questioning and written documentation and request substantiation of any statements.
2. At a formal appeal, the consultant is required to provide Classification Joint Council with written rationale as to the basis of the consultant's decision regarding the appealed factors. If additional evidence is provided at a hearing, the consultant is charged with the responsibility to ensure such material is valid and, if necessary, substantiated and that it meets the requirements in the Notes to Rates and full intent of the factor degree.

J. Role of the Appellant

3. An appellant may appear alone, or with an advocate who can be another employee, or a designate of the union.
4. To provide written rationale as to why his/her job should be rated higher on a factor by presenting examples of job content that relate to the factor being appealed.
5. To have new information not provided in the job description signed and authorized as legitimate duties or authority levels by the manager, so authorized by the permanent head.
6. To bring sufficient copies of any written evidence to the hearing for Classification Joint Council and the consultant.
7. If there is a group appealing, the group will identify its spokesperson, or advocate to the Appeals Coordinator, prior to the hearing. In the event the group has appealed more than one factor, a different spokesperson for each factor will be allowed.

K. Witnesses

1. Appellants, the consultant, or Joint Council may call witnesses, including the appellant's supervisor, or manager.
2. The Appeals Coordinator is to be advised prior to the hearing of any witness(es) who will be attending by the individual who is calling the witness.
3. Witnesses may only answer questions for clarification of job content, or authority.
4. They are not to present a case, nor express their opinion of the rating. Responses are to be individual, without interruption and addressed to Classification Joint Council.
5. The questions must pertain to facts about which the witnesses have first-hand knowledge. If questions are asked which the witness(es) cannot answer from their own knowledge, they should decline to answer on that basis.

L. Observers

1. Observers are not appellants at the specific hearing.
2. Observers cannot participate in any way in any discussion.

M. Rules of Evidence

1. All written evidence must be made available (to all parties) at the hearing.
2. The basis for the evaluation of the position are the duties and responsibilities, as evidenced by:
 - The duties and responsibilities in the job description form, signed by the manager;
 - Examples of work in the job description form; and
 - New or additional information presented at a hearing in the form of job content or authority, or examples of work performed. The consultant and/or Classification Joint Council may request verification by requesting such evidence be signed and authorized as legitimate duties or authority levels by the permanent head, or designate.
3. In the event that new information presented at a hearing has not been confirmed by the manager, it may be considered in rendering the decision. However, no decision shall be released if confirmation is required until confirmation is received in writing by the consultant.
4. Words copied from a factor definition must be substantiated with examples and are not accepted outright. Similarly, if examples are copied from CDs where the job is very different, the out-of-scope manager may be requested to verify that such duties are, in fact, performed.
5. Where there is a contradiction between information in the job description and the ratings assigned due to the examples of the work performed provided by the appellant and their manager, Classification Joint Council shall base its decision on the examples. It is not the role of the appellants, nor the manager/supervisor to interpret the job evaluation plan. This is the role of Classification Joint Council.

N. Procedures in the Appeal Hearing

1. Preliminary
 - There shall be no discussion by members of Classification Joint Council with either party prior to the appeal hearing.
 - The Chair shall call appellants, consultants, witnesses and observers, into the hearing room.
 - The Chair ensures that everyone is introduced, including observers and witnesses.
 - The Chair outlines the role, authority and procedures of the appeal hearing and the authority of the Classification Joint Council, and outlines that the basis of the evaluation shall be the statement of duties, examples of work and the authority level assigned to the job.
2. Appeal Presentation
 - The appellant and consultant shall appear at Council sittings concurrently.
 - An appellant, in absentia, may be represented before the Council by a nominee designated in advance by the appellant. The nominee, who shall be a fellow employee, may be

accompanied by an advocate, as above.

- The appellant shall present the rationale for the first factor appealed, without interruption.
- The consultant will present the brief on the first factor appealed, without interruption.
- After presentation by both parties, a question period to clarify evidence presented will be allowed. Questions may be asked by any member of the Classification Joint Council, the appellant, or the consultant, as directed by and through the Chair.
- Witness(es) may only be questioned regarding job content or authority of which they have first-hand knowledge. There is an expectation that Classification Joint Council will determine how such witness(es) came to have first-hand knowledge.
- An opportunity for a short summary rebuttal shall be provided to the consultant. An opportunity for a short summary rebuttal shall then be provided to the appellant. For a group appeal, only a single spokesperson shall be given rebuttal opportunity. Groups will be allowed a five (5) to ten (10) minute break, to allow input to the rebuttal.
- When an appellant has appealed more than one factor, the presentation, questioning and rebuttal process shall be repeated for each factor appealed.
- Before excusing the consultant and the appellant, Classification Joint Council members shall refrain from making statements, comments, or stating personal opinions about what level jobs should be evaluated, nor enter into any debate about the meaning, or interpretation of the factor.

3. Deliberations

- The Chair will excuse the consultant and appellant, witnesses and observers after presentation of all appealed factors.
- If the Classification Joint Council requires additional information, it shall request the consultant to obtain it. Such information shall be made available to the appellant.
- In comparing duties and responsibilities to CDs, Classification Joint Council shall consider the full content of the CD description for that factor. Comparison to jobs other than the CDs in the classification plan is not permitted.
- Moral or monetary issues are not to be considered.
- Classification Joint Council shall determine the appropriate rating by consensus and notify the Appeals Coordinator, providing rationale on the form provided. No results are to be released by Classification Joint Council members, except to the Appeals Coordinator.
- If a rating change is agreed to by consensus, Classification Joint Council shall provide their recommendation to the Appeals Coordinator with written rationale in the form of examples, which show how the work is consistent with the full content meaning and intent of the level definitions within the factors, factor definitions, Notes to Raters and Comparative Descriptions. If there is no change in ratings, Classification Joint Council shall provide an explanation which will include any additional rationale supporting the assigned ratings. The Appeals Coordinator will forward the recommendation and rationale to Joint Audit Committee, for a decision.
- In the event that consensus is not achievable, each member of Classification Joint Council shall provide rationale supporting their recommendation to the Appeals Coordinator who will forward to Joint Audit Committee, for a decision.

4. Release of Decisions

- No decision shall be released, except to the Appeals Coordinator, in writing. The Appeals Coordinator shall release final decisions made by Joint Audit Committee.

- Decisions made by Joint Audit Committee are final and binding on the incumbent and the parties to this agreement, and on subsequent incumbents, where there has been no change of duties and responsibilities.

O. Composition of Joint Audit Committee

1. The Joint Audit Committee shall consist of one (1) union and one (1) management representative from the Joint Maintenance Committee. The SGEU and the Commission shall select their own list of persons to function as their representatives to the Joint Audit Committee.
2. The Joint Audit Committee is subject to the same conflict of interest guidelines and training requirements as Classification Joint Council.

P. Role and Authority of Joint Audit Committee

1. Joint Audit Committee will render appeal decisions where:
 - a. Recommendations have been made by Classification Joint Council; or
 - b. Classification Joint Council is unable to reach consensus.
2. Prior to rendering a decision, the Joint Audit Committee shall consider:
 - the consultant's brief;
 - the appellant's rationale and authorized job description, as at the effective date of the assignment;
 - the Classification Joint Council's rationale;
 - Comparative Descriptions;
 - the full intent of the degree definitions within the factors;
 - Notes to Raters; and
 - any new information they may request.
3. The Joint Audit Committee may only render decisions on factors adjudicated by Classification Joint Council.
4. In the event the Joint Audit Committee changes the Classification Joint Council rating, the Joint Audit Committee shall provide written rationale to the Appeals Coordinator, consistent with the full content, meaning and intent of the level definitions within the factor, factor definitions and Notes to Raters.
5. Where Joint Audit Committee does not reach consensus, a Chair shall be brought in, selected in rotation from an agreed-to list of Chairs.

Q. Records

The Commission shall keep a register of all appeals, showing name of appellant, agency, branch, occupation, date filed, date heard, council and committee decisions.

R. Payment of Members

1. The employer shall provide leave of absence with pay to union members on the Classification Joint Council and Joint Audit Committee.
2. The Chair of the Joint Audit Committee, if in the employ of the government, shall be granted leave of absence with pay. If not in the employ of the government, the remuneration shall be equally shared by the parties.
3. The union shall be responsible for the travel and sustenance expenses of its representatives.

Article 5.4

Challenges to Reclassified Positions by Other Employees

- A. Any Permanent Full-Time, Permanent Part-Time or Permanent Labour Service position which is reclassified and results in a promotion for the incumbent shall be advertised on the Public Service Commission's website and posted in the reclassification challenge unit. The incumbent is not required to apply to the posting.

- B. Such a reclassified position becomes subject to the challenge process when another employee establishes to the satisfaction of the Commission and the Union that her promotional opportunities have been unjustly curtailed in view of the fact that the duties might as readily have been assigned to her.
 - i. The challenge is initiated by the challenger forwarding her resume to the Commission by the posted deadline. The challenge is valid if the challenger is:
 - a. more senior;
 - b. of the same employment status;
 - c. in the same occupation **and classification level**;
 - d. from the same reclassification challenge unit; and
 - e. In the case of a reclassified permanent part-time position, a permanent part-time employee who works the same or greater number of hours.

 - ii. If the challenge is valid, the Commission must ascertain if the challenger is qualified for the higher level duties in accordance with Article 6.2.15.1.

 - iii. If the challenger is qualified, the challenger's position will be permanently reclassified at the higher level effective the first of the pay period following the original decision.

 - iv. The original incumbent shall be appointed to his previous position at his previous classification level effective the first day of the pay period immediately following the date of the change.