



Customs and Immigration Union
Syndicat des Douanes et de l'Immigration

WHAT DO I DO?

**Quick reference guides for union
representatives on topics such as:**

Fact-findings and PSI investigations • The grievance process •
Suicide and mental health crises in the workplace • Branch
complaints • Running an effective Branch • Union leave • Use
of force • Tool removal



FACT-FINDINGS AND PSI INVESTIGATIONS

1. Before the FF/PSI interview

- Meet with the member and explain the process (request paid time). Depending on the seriousness of the allegations, the investigation could be conducted by local management, local management with PSI support, or by PSI alone.
- Put together a storyline. Who, what, why, when, where. Try to pin down what parts of the Code of Conduct are involved. Note any prior discipline or incidents in the member's work history.
- Seek clarification of the allegations if the member is uncertain. Procedural fairness requires the employer to explain exactly what the member is alleged to have done wrong. You need enough information to be able to prepare an adequate defence before the first interview.
- If the member was placed on administrative leave without pay, file a grievance (see appendix H of the collective agreement).
- The invitation to the fact-finding interview should give 48 hours notice and mention that the member has a right to union representation. If it does not, contact the CIU national office.
- Explain the union's role. A representative is not merely an "observer". You are there to ensure that the principles of natural justice and procedural fairness are followed. That means providing guidance to the member, asking for breaks if necessary, and asking clarifying questions. You cannot, however, answer questions posed to the member or speak on their behalf.
- Advise the member on how to conduct themselves during the interview. Tell the truth. Seek to display honesty, integrity, and trustworthiness. Cooperate fully but only answer the questions being asked. Be careful about volunteering information that goes beyond the scope of the question. It is always better to answer "I don't know" or "I don't remember" than risk being caught in a falsehood.
- Support your member. Assure them that the union will be there throughout the process and will support them in a grievance if discipline is forthcoming. Ensure all rights are

being protected, including language rights and any accommodation needs. Provide the EAP toll-free number and advise the member not to speak with other employees or management about the issue giving rise to the investigation.

2. During the FF/PSI interview

- Before the meeting begins, ask the employer to identify the lead manager and determine who will be taking notes.
- Ask the lead manager for a copy of the questions. If they won't provide them, advise that you will have to write down every question when it is asked, thus delaying the meeting. Ask your member not to answer until you have written down the question and noted who is asking it.
- Note all of the member's answers. Ask the interviewer to slow down if you need to catch up with your note taking.
- Ask for as many breaks as needed if you feel your member needs a time-out or you need to have a private discussion.
- If management is showing video to "prove" misconduct, question whether they are following their policy on the use of video recordings. If asked, do not give permission for the video to be used as evidence and object to its use if you believe that the employer has violated its own policy. Seek assistance from the CIU national office if you know in advance that the employer intends to use video evidence to demonstrate misconduct.

3. After the FF/PSI interview

- When the meeting concludes, the member will be asked to review and sign the notes management has taken. The member is not obligated to sign if they do not agree with the contents.
- Ask the lead manager who will be making the final decision (the manager, a Labour Relations advisor, or another third-party).
- Tell management that you will need some time to consult with the member after the meeting is over. Go over the interview with the member and ask how they are feeling. Offer the EAP number if appropriate.
- Reassure the member again that the union will be there for them and that they can reach out if they think of anything that was missed.
- Tell the member to let the union know as soon as they hear anything from management.

- Once the decision is rendered, the member should request a copy of the Investigation Report. If the employer won't provide it, contact the CIU national office as the member has a right to be provided with a copy of this document.

4. The pre-disciplinary meeting

- Meet with your member to explain the purpose of the meeting. Management has determined that the allegations were founded and are providing the member with an opportunity to present any mitigating factors. They may also be seeking clarification or asking for evidence to support any defence the member put forward during the fact-finding exercise.
- Discuss strategy. Compile a list of mitigating factors that could include the absence of previous discipline, years of service, provocation, and lack of intent. The member must demonstrate that they are forthcoming, understand the problem, and exhibit remorse.
- Ask to be provided with any aggravating factors that could increase the measure of discipline being contemplated by the employer. Go over the Investigation Report with the member and prepare to explain or provide additional information to counter its conclusions. Caution your member that being overly defensive will be interpreted as "not taking responsibility". Challenging the conclusions or issues of procedural fairness, therefore, should be done by the representative and not by the member. Serious flaws in the investigative process are usually best dealt with through the grievance procedure, and mounting a full challenge at the pre-disciplinary meeting is unlikely to help your member.
- If the member has been on administrative leave without pay, request that the member be returned to work, even at a different location or with adjusted duties if applicable.

5. The disciplinary meeting

- The purpose of this meeting is for management to deliver the quantum of discipline (or the decision not to discipline). The investigation is complete, and the disciplinary decision cannot be changed at this meeting.
- The best way to express displeasure at the outcome of this meeting is to file a grievance. Discourage the member from expressing contempt or anger. If they wish to convey a message or make a statement, suggest that you provide the commentary on their behalf. The best practice is usually to say nothing and address the quantum of discipline and any procedural issues through a grievance.

6. Final steps

- If the member has been on administrative leave without pay, ask management whether they will be reimbursing lost wages and benefits. This is particularly the case for members who were placed on administrative leave and subsequently absolved of any misconduct. If the employer does not commit to reimbursement, file a grievance.
- File a Personal Information Request if you suspect that the employer is withholding information (<https://www.canada.ca/en/treasury-board-secretariat/services/access-information-privacy/access-information/request-information/types-atip-requests.html>). This will expedite preparation of the file for a final level consultation if the member files a grievance.



THE GRIEVANCE PROCESS FOR UNION REPS

This document is based on material prepared by the CIU Niagara and CIU Manitoba Branches.

1. Meet with the grievor

- Make notes of all relevant information pertaining to the grievance.
- Gather evidence to support the grievance (e-mails, schedules, etc.)
- E-mail or talk to a member of the executive with a short summary of the grievance to be filed.
- Have the member complete the Grievance Fact Form (available online through CIU website) to give their narrative, in chronological order, exactly what happened and what redress they are seeking.

2. If matter deemed grievable

- Complete grievance form-available online at CIU website, or Google "PSAC Grievance Form"
- Fill out Section 1 with Grievor
- Complete Section 2 as the Representative
- Present completed form to Superintendent/Manager for signature. Request to be sent grievance number ASAP.
- Once signed by all parties, make 2 copies:
 - Original to Employer
 - Copy to Grievance file
 - Copy to Grievor

3. Create grievance file

- Generate folder for tracking
 - Grievor's last name and grievance number
 - Encourage grievor secure all docs and grievance in file too
- Place all information regarding the grievance in the grievance folder including any evidence, documents, reports, letters from management, notes, forms etc.
- Inform Branch President/Executive of progress of grievance

4. Prepare your arguments

- Typically you will receive an email from the Superintendent/Manager within 10 business days of filing the grievance to set up First Level consultation meeting

5. Level 1 consultation

- Ask Manager for grievance number associated to the file- write down your notes
- Make notes about your Level 1 arguments and add them to the file at the conclusion of your meeting along with the minutes of the presentation (if applicable)
- Include your name and the date of the consultation in your notes
- Request copy of management's notes. (optional but nice to have)
- Include the name of the management note taker in your notes (if applicable)

6. Level 1 reply

- Ensure a FULLY signed copy of the grievance reply is placed in the grievance folder and receiving from management
- You have 10 business days to transmit the grievance to the succeeding level if the Grievor is not satisfied with the reply.
- It is good practise to transmit immediately so that the timeline is not missed

7. Grievance transmittal

- Grievance Transmittal form (available online in the CIU website or Google "PSAC grievance transmittal")

- Complete 1, 2 & 3.
- Present completed form to Superintendent/Manager within 10 business days of grievance reply
- Once signed by everyone, make a photocopy
- Original to Employer
- Copy to the grievance file
- Copy to grievor

Repeat steps 4 through 7 for each remaining level in the grievance process (within designation)

- Refer to your local CIU designation levels before proceeding to the next level.
- If the grievance is being transmitted to Level 2, ensure it is being handed to a member of the executive and all information in the grievance folder is transferred to the executive member.
- All grievances submitted to Final Level must ALSO be emailed to the CIU National grievance intake inbox grievance@ciu-sdi.ca – do this ASAP after transmittal
- Be sure to include the grievor's up to date contact information (email, address, and telephone #) as well as all documents and records contained in the grievance folder when sending to CIU National, including all emails, supporting docs, policies, letters of discipline, arguments from consultations at lower levels.



SUICIDE AND MENTAL HEALTH CRISES IN THE WORKPLACE

1. Preventing a crisis

- Work on creating and maintaining a safe work environment so that members feel comfortable admitting that something is wrong.
- Advocate for regular and ongoing union/management training to identify early warning signs and triggers.
- Reduce the stigma associated with tool removal so that members don't feel they have to hide a problem to avoid feeling marginalized.
- Actively work at eliminating gossip, rumours, and cyber-bullying (Facebook aggression) in the workplace.
- Touch base with your members and ask them how they're feeling if you suspect someone is experiencing undue stress or anxiety. Don't be afraid to address the issue of mental health head-on.

2. Preparing for a crisis

- Work on developing a Critical Incident Stress Management plan (CISM) with management, ideally through an OHS subcommittee.
- Insist that any plan include grief and trauma specialists, not just EAP providers.
- Make training on mental health issues accessible to all union representatives.
- Compile a list of resources you can access in the event of a crisis.

3. Death by Suicide

- Plan to be onsite for several days to be available to members in distress. Ask for union leave so that you can focus on the needs of our members.
- Make information on EAP available to all members and encourage them to speak with someone about how they are feeling. Use local WhatsApp, FB, social media to communicate with reps and members, keeping in mind the privacy of the family.
- Connect with EAP professionals on site and develop a common approach to dealing with the crisis.
- Make efforts to bring members together, trying to include members from other ports if appropriate.
- Identify one person to liaise with the family (members will want to do something for the family after the immediate crisis is over).
- Debrief post-crisis with management and identify ways to improve the response in the future.
- Be aware that EAP is only temporary. Members may continue to need support over time, particularly at triggering events such as anniversaries.
- Ask for help if you feel overwhelmed. Take care of your own needs and ensure that you also have someone to talk to.



BRANCH COMPLAINTS

1. General advice

- It is always good practice to try and resolve complaints informally. A variety of resources are available for conflict resolution including mediation conducted by a trained member from another Branch or another Component of the PSAC.
- If you are unsure of how to deal with a complaint, especially if it involves members of the Branch Executive, reach out to your CIU National Labour Relations Officer for assistance.

2. Member on member complaints

- Determine whether the subject of the complaint was acting in their role as a union steward/officer. If not, this is a matter for the employer (harassment), not the union. The complainant should be advised to file a grievance or a WPV complaint.
- If it involves the roles of a union officer, complaints are covered under CIU Bylaw 6. Determine whether the allegation(s) fall under the violations listed in article 2 (contraventions).
- Branch Presidents interpret the Branch Rules, but if you are uncertain about an interpretation of the Bylaws, contact the National President.
- If the allegations fit within the listed contraventions, the Branch President needs to appoint a 3-member investigation committee (members trained by the PSAC to conduct investigations).
- The investigation committee will then report its findings to the Branch Executive.
- If discipline is recommended, the matter will be put to a vote of the Branch membership.
- Note that complaints against a Branch President are handled by the CIU National President.

3. Branch elections

- Complaints about Branch elections should be referred to the office of the CIU National President.

4. Failure to Represent

- If a member is unhappy with the representation provided by the union, they can file a Duty of Fair Representation Complaint (DFR). This goes to the Labour Board and is defended by the PSAC. The union does not assist with filing this type of complaint beyond telling the member that they have the right to file a complaint and can find all the information on the FPSLREB website.

5. PSAC officers

- Complaints about PSAC officers should be directed to the office of the PSAC National President.



RUNNING AN EFFECTIVE BRANCH

1. Map your network

- Work on creating and maintaining a safe work environment so that members feel comfortable admitting that something is wrong.
- Advocate for regular and ongoing union/management training to identify early warning signs and triggers.
- Reduce the stigma associated with tool removal so that members don't feel they have to hide a problem to avoid feeling marginalized.
- Actively work at eliminating gossip, rumours, and cyber-bullying (Facebook aggression) in the workplace.
- Touch base with your members and ask them how they're feeling if you suspect someone is experiencing undue stress or anxiety. Don't be afraid to address the issue of mental health head-on. Establish who is responsible for which tasks within your Branch structure (Executive and steward body).
- Establish who you represent and where they work. Identify your active members.
- Establish who fits where within the CBSA structure. This includes both managers and regional/national Labour Relations Advisors responsible for your region.
- Establish who will provide you with immediate support at CIU. This includes members of the National Executive and the Labour Relations Officer (LRO) responsible for your Branch.

2. Familiarize yourself with available resources

- Branch Rules (your bible on union processes and responsibilities)
- The Collective Agreement (your other bible)
- Other Branch Presidents. Build your network of peer support.

- The CIU National Executive, National Office staff and your LRO
- The PSAC Regional Office (bargaining meetings, Benefits, Worker's Comp, etc)
- The Federal Public Sector Labour Relations and Employment Board website
- PSAC training (any member in good standing can attend)

3. Understand All of Your Redress Options

- Grievances (individual/group/policy)
- Staffing Complaints
- Privacy Complaints
- Violence in the Workplace Complaints (Canada Labour Code)
- Human Rights Complaints
- Consultation with management (lowest level resolutions)
- Health and Safety

4. Build your pool of active members

- Provide an orientation session for new members.
- Alternate where you hold union meetings if your workplaces are far apart.
- Build Branch identity with local swag.
- Actively work with your workplace Health and Safety Committees and pick the right members for the committee and especially the Employee CoChair. Learn how OHS works, the internal complaint process, Committee Referrals, Refusals, etc.
- Establish a social media group for your Branch (WhatsApp, FB group, Messenger etc.)
- Emphasize teamwork. Hold regular meetings (AGM, Stewards, Executive) and use the Rules of Order so that your members are familiar with the format when they attend larger union events.
- Focus on recruitment, especially where POEs are far apart (and make sure to reach out to members who don't have a local steward). Make regular site visits if possible. Actively try to sign on RANDS.
- Keep a comprehensive membership list with accurate contact information. Provide members with regular union updates through social media and/or union boards.

- Make sure your members know who to contact if they have issues or questions. Make contact sheets available and keep them updated.
- Work with the local PSAC representative to craft a development plan if you are having trouble building your Branch.

5. Be a leader

- The more you know, the more confident you'll feel and the better equipped you will be to represent your members. Everything is a learning opportunity.
- Manage the expectations of your members. You can't always get people what they want, and there's no point in pretending you can.
- Try to build good relationships with management. You don't have to always agree, but you do have to work together to effectively represent your members.
- Ensure your union/management meetings are regular and effective. Talk to the member of the CIU National Executive responsible for your region if they're not.
- Don't try to do it all yourself. Establish portfolios for your Executive and ensure responsibilities are clearly identified. Advise of available PSAC training for each representative (e.g., Young Worker, Human Rights, Health & Safety etc.)
- Make succession planning a constant priority to ensure an easy transition to the next Branch President

6. Avoid potential pitfalls

- Respect your member's right to privacy. Use personal information only for the reason it was provided and maintain strict levels of confidentiality. Save documents securely with need-to-know access. Push for a private and secure union office.
- Respect stringent rules when it comes to finances. Have an effective audit process by members who are not affiliated with the Branch leadership.
- Keep good records. Maintain an efficient grievance filing system that will outlive your time in office.
- Maintain appropriate boundaries.
- Delegate, learn to say "no", and protect your personal time. You can't help your members if you're stressed, burnt-out and overworked. You are never alone, so understand and use your support systems.



UNION LEAVE

1. Union leave under the collective agreement

Subject to operational requirements, you can get leave with pay for:

- Your grievance hearing in front of the FPSLRB (or other adjudication)
- Representing another member in front of the FPSLRB (or other adjudication)
- Being called as a witness in front of the FPSLRB (or other adjudication)
- Participating in alternative dispute resolution, either as the complainant or a witness
- Meetings with management
- Meetings with a member you are representing on a grievance. With pay in your headquarters area, without pay if outside headquarters area.
- Grievor meeting with the employer at the employer's request. Representative gets with pay in headquarters area, without pay if outside headquarters area.
- Grievor meeting with the employer at grievor's request. Both grievor and representative with pay in headquarters area, without pay if outside.
- Leave without pay: Collective bargaining (and prep time), BoD and Conventions (PSAC and CIU), training related to union duties.

2. Tips to secure leave

- Talk to your Director and provide her/him with a clear understanding of your needs.
- Provide different options, if possible, when requesting union leave. Make it harder for the employer to say "no".
- Be aware of any "off-the-books" agreements in your Branch, for ex. time-for-time leave for union business.
- Be flexible when asking for union leave that is not provided in the collective agreement.
- Try to convince management that your union work benefits them.



USE OF FORCE

1. Support your member(s)

- Offer them water and a snack (hydration and sugars)
- Speak calmly, listen, and assure the member of their safety.
- Speak to the Superintendent/Chief to make sure the member isn't assigned duties that they may not be in the right state of mind to fulfill (i.e. PIL or enforcement)
- Follow all First Aid protocols for both mental and physical health.
- Assist the member in contacting a friend or family member.
- Ensure that CISMS | EAP supports are provided.
- Funding is available for medical assistance.
- If you need to leave, delegate someone else to be with the member so that they are not left alone.
- Be aware that you may also need support. Don't be afraid to ask for help.

2. Protect your member's rights

- Call Raven Law Line 1.877.282.1599, CIU National Office or National Executive
- Reminder of time limits on submission of Use of Force Report – 24hrs. There is no need for the member to work on this immediately.
- Assist a member who is requesting to leave after a traumatic experience.
- Make contemporaneous notes for your own use (not just for the Use of Force Report)
- Speak to Managers | Superintendents for initial informal feedback.
- Ensure to obtain & review video footage if possible.
- Seek a Use of Force Instructor to assist in writing the report and debriefing.
- Assist a member who may require accommodation. This could include working at another location, telework, or leave with pay.
- Respect the member's right to privacy.

3. Ongoing concerns

- Mentor a union member in your work location who is trained on Use of Force issues and able to advise members in a use of force situation.
- EAP is generally limited and may not be able to provide sufficient support. Maintain a list of other resources that can be accessed where there has been a use of force incident.
- Provide refreshers on the PSI process so that members know what to expect. Members have the right to union representation (see *What do I do? #1*).



TOOL REMOVAL

1. Prior to removal of tools

- Build a respectful relationship with management to avoid surprises.
- Ensure the member has representation if there is a possibility that tools will be removed.
- Assure the member that their union will support them. Tool removal happens in law enforcement, and we will guide them through the process to get their tools back if they are removed.
- Ensure the *CBSA Firearm Removal Policy* is being followed, including the 24-hour review by the director. Ensure the member has been provided with the CBSA *Demystifying the non-administrative removal of defensive equipment* policy document. Ensure management has read and is following this.
- Defend the member's right to be informed of the reasons for the tool removal.

2. Grieving the removal

- File a grievance following the tool removal if the member believes that the employer had insufficient grounds for removal.
- File a grievance if the process for returning the tools is delayed. For example, constant requests for more medical information, failure to liaise with Health Canada, delays in decision-making etc.
- Tool removal is an administrative measure. Grieve any action on the part of the employer that suggests the tool removal is disciplinary. For example, being given meaningless or inappropriate duties, constant shift changes, loss of overtime opportunities, being left out of assignments etc.

3. Getting tools reinstated

- Inform members that they can use their own doctor/psychologist to provide medical information (recommended). Grieve the mandate for a psychological assessment if there is not cogent evidence of a safety issue in the workplace.
- Inform members of the limits to the information the employer can ask for. This includes not being able to request a diagnosis or psychiatric notes. The employer can, however,

ask for specific limitations and a list of medications, as long as they are related to the member's ability to perform the duties of their position.

- Stay in communication with the member, the local manager who sits on the committee that deals with tool removals, and the member's manager. Check in regularly and keep the pressure on for the return of the tools.