



TRU Faculty Association

TRUFA Executive Board Duties and Responsibilities

Preamble:

The TRUFA Executive Board and its membership are governed by the TRUFA Constitution and By-Laws. The Powers and Duties of the Executive Board are found in Article 7 of the TRUFA By-Laws.

I. Duties and Responsibilities (taken from the FPSE Executive Training Manual)

All Members elected to the TRUFA Executive Board are designated as Directors of the Association and assume a **Trustee** status. A trustee is a person who, by virtue of election by Members, holds and maintains a position of trust and is required to fulfill a **fiduciary duty**, a duty to uphold or act in accordance with that trust. As trustees of the Association, Executive Board Directors are entrusted with a degree of discretionary authority to act in the best interests of the union and its members.

The Executive Board can make decisions on behalf of all Members, but those decisions must not contradict the Constitution and By-Laws of TRUFA, nor can they contradict the decisions of the general membership at Annual General Meetings or Special Meetings.

Under the BC Labour Code, members of the Executive Board of a certified labour union—such as TRUFA—are legally obligated to meet certain standards of practice. The two primary standards are **Natural Justice** and **Fair Representation**.

Natural Justice.

Section 10 of the Labour Code obligates the union to treat each member equally and with the principles of natural justice:

10 (1) Every person has a right to the application of the principles of natural justice in respect of all disputes relating to

- (a) matters in the constitution of the trade union,*
- (b) the person's membership in a trade union, or*
- (c) discipline by a trade union*

10 (2) A trade union must not expel, suspend or impose a penalty on a member or refuse membership in the trade union to a person, or impose any penalty or make any special levy on a person as a condition of admission to membership in the trade union or council of trade unions

- (a) if in doing so the trade union acts in a discriminatory manner, or*
- (b) because that member or person has refused or failed to participate in activity prohibited by this Code.*

Natural justice is difficult to define precisely. Basically, the application of the principles of natural justice means that the process needs to be fair. The application and requirements of natural justice varies with the circumstances and the gravity of each case and issue. However, the two basic principles are:

- the right to be heard
- the right to a hearing from an unbiased tribunal

In other words, the union and the Executive are obligated to ensure all members are treated fairly.

Fair Representation

Section 12 of the Labour Code obligates unions to represent each member fairly. Section 12 states:

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.

As outlined in Section 12 above, fair representation means that the union cannot act in an arbitrary and/or discriminatory manner. "Arbitrary and discriminatory manner" means that the union must be fair and impartial in its handling of a grievance.

The Labour Board has found that the union is not required to be correct in its assessment as long as it can be shown that the union investigated the grievance and arrived at a thoughtful reasoned judgment as to its disposition. Personal attributes such as race, religion, sex, age, physical or mental handicap should not influence the way the union handles a grievance. Further, the union must not make 'bad faith' decisions ... those motivated by ill will.

Basically, the duty of fair representation requires that the union consider each grievance on its merits and make a decision without discrimination against the individual(s) concerned. Even where the collective agreement allows an individual employee to file a grievance without the support of the union, it is still up to the union to take a grievance all the way to arbitration. The union is not required to take every grievance to arbitration.

In deciding whether to take a grievance to arbitration, the union is entitled to weigh various factors, including the impact on the individual and the rest of the bargaining unit, the merits of the case and the impact of a possible loss. These same questions may be considered in deciding whether to settle a grievance prior to arbitration. While it is not recommended, the union may decide to settle a grievance even without the consent of an individual grievor, as long as the decision to settle is not arbitrary or discriminatory.

Failure to represent a grievor can result in a complaint alleging an unfair labour practice against the union. Union members have the right to file a complaint with the Labour Relations Board if they believe their union is in violation of Section 10 or Section 12. The Labour Relations Board has the responsibility and authority to investigate all complaints and can hold the union liable if the charges are found to have merit.

Representation and Accountability (new)

Executive Board members act as representatives of the broader TRUFA membership. Some Directors are elected by a specific constituency of the general membership and are expected to be accountable to that

constituency. Other Directors are elected at large by the entire membership, and are accountable to all members.

Representation involves two forms of communication: bringing issues and concerns from the constituency to the Executive Board; and reporting Executive Board decisions and discussions to the constituency. To fulfill Directors' duty of fair representation, such communication and reporting is essential.

Chairs of TRUFA standing committees who serve on the Executive Board and Executive members representing Faculties/Schools, Contract faculty, Williams Lake faculty, and Research/Scholarship faculty all have a responsibility to arrange for or attend meetings of their constituent groups. Ideally, representatives from Faculties/Schools should attend their respective Faculty Council meetings as a way of identifying key issues that may arise within an academic unit and reporting to their constituents.