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References

Terms of Reference for JHSC's

Terms of reference (TOR) for the workplace joint health and safety committee (JHSC) are an essential component of a well-functioning committee. They provide the framework which guides the committee members in how to carry out their duties in their particular workplace. The government of Newfoundland & Labrador defines terms of reference as “a document identifying the ‘way of doing business’ or the ‘rules’ by which a committee functions. It identifies the purpose of the OH&S committees and guides them in their work.”¹

Most provincial occupational health and safety acts (Acts) mandate that JHSC's have terms of reference or operating guidelines. Ontario legislation does not specifically lay out the requirement for TOR's for its workplace JHSC's, however, it is understood that it is necessary for both the employer and the workers to have agreed upon criteria that assist the committee with its mandate.

The Canadian Centre for Occupational Health & Safety (CCOHS) notes that along with an occupational health and safety policy that demonstrates management's commitment to workplace health and safety, there should be a document that defines roles, responsibilities and procedures.² This document is commonly known as “terms of reference”.

Crafting Terms of Reference/ Rules of Procedure

The rules of procedure are written by the employer and worker joint health & safety committee members. They must meet or exceed the requirements of the provincial or federal legislation.

Most jurisdictions have a legislative notation for the requirement of terms of reference or rules of procedure in their respective Acts or regulations, in concert with a companion guide that lays out important elements to include in the document.

While it is important that the development of the TOR does not become a tug-of-war over items or language, it is vitally important that the document reflects the serious nature of workplace health and safety and the employer's commitment to implementing and maintaining it. It is useful to remind the employer members of the committee that what protects the workers (in this case, a well-trained and properly functioning JHSC) also protects the employer and the public (in this case, students, visitors and others such as contractors) who may be on the institution's property.

The Saskatchewan Occupational Health and Safety Committee Manual notes the importance of “Allowing everyone....to have



a voice in decision-making but discouraging anyone from dominating the meeting” and “Involve stakeholders” to assist in identifying the root cause of problems. It also states that “Committee members must feel able to express their views freely and without risk of retaliation.” Further, it states that the JHSC should be “Building training into the committee’s work plan for each year.”

Framing the Language

Worker-friendly language should be incorporated into the body of the text of TOR’s. This not only recognizes worker rights in the Act, but also sends a signal to the employer, association/union members and others that workplace safety is first and foremost, about and for workers.

The University of Toronto’s Terms of Reference³ is a superb example of how worker-friendly language should be framed: the term “worker” always comes first in a sentence, especially when referencing groups of people, ie “A designated worker member and a management member will...”

Outside the Box

Often rules of procedure are too limited, and are not a useful reference mechanism when important issues arise. They are not meant to address every health and safety item that may arise, but they should be comprehensive enough to be a resource tool when needed.

Two examples are captured quite well in the University of Guelph’s⁴ TOR that specifically recognize the need and rights of non-union workers to be included in workplace health and safety: “*part-time employees, grant and trust employees or other unrepresented employees are, by

default, to be represented by any/all worker members of the C[Central]JHSC or L[Local]JHSC”; and that workers have control over whom they receive their health and safety training from, ie “The training providers to be considered shall be the Workers Health and Safety Centre or in-house training provided by the Environmental Health and Safety Department or another qualified trainer *as recommended by the worker members of the CJHSC.*”

Acadia University⁵ has clear, comprehensive language on how to deal with decision-making when differences of opinions arise:

4.6. Decision-making

The Committee will normally seek to operate by consensus amongst the voting members, without the need for formal votes. Critical recommendations to the University and other significant decisions may, however, warrant a formal vote. Voting may also be necessary if the voting members cannot reach consensus on a matter.

Any member may request a formal vote on a matter before the Committee. Whenever practical, the intent to request a formal vote should be declared to the Safety Office in advance of a meeting, so that the agenda may advise members accordingly.

Voting members must be present in order to exercise voting privileges. When all voting members are present, a vote may be requested and executed during the same meeting. If all voting members are not present, notice of a vote shall be declared, and the vote shall be deferred until the next meeting.

When proper advance notice of a vote has been given, and when a sufficient number of members are present to establish a quorum, a motion will be carried when supported by one-half plus one of the members present.

Seek Advice from your Academic Association/Union

It is important that TORs be written well and ensure that worker reps on the committee will be able to carry out their duties as prescribed by law without employer interference.

When drafting new TORs, or amending existing ones, consult with your academic staff association or CAUT's Occupational Health & Safety Department for strong, meaningful language that can be used effectively to keep the workings of the committee on track.

Linking With Other Campus Unions/Associations

Academic institutions often have a two-tiered health and safety committee system: an overarching committee for the entire institution, and individual academic association/union and other campus unions/associations health and safety committees.

When developing TORs for the overarching committee, it is imperative that all the worker organizations work together on common ground to produce a cohesive front when presenting their "wants" to the employer members of the JHSC. Much of this work should be done ahead of and away from the formal meetings so that everyone has an opportunity to work together and present together.

Although each individual worker organization may have separate health and safety committees with their own sets of references, it is still very important that the references for all the associations/unions contain standard language and expectations so that no one is disadvantaged when dealing with the employer on workplace health and safety issues.

Building Blocks for the TOR

Although each workplace's TORs may vary slightly, they should have basic, standard goals and objectives that meet or exceed provincial or federal legislation or regulations.

The following list from Nova Scotia's rules of procedures⁶ for JHSC's is an excellent guide (but not exhaustive) as to what every term of reference document should contain:

- composition of the committee
- term of appointment of members
- the way in which meetings are to be called
- who can call a meeting
- notice to be given for regular meetings
- frequency of meetings
- emergency meetings
- conditions under which emergency meetings will be called
- conduct of meetings
- setting the agenda
- matters the Act requires the employer to consult the committee on
- inspections
- investigations
- hazard identification
- responses to complaints, work refusals, accidents, or incidents reported to the committee or committee members
- communications
- recommendations
- minutes/record maintenance and storage
- quorum
- chairing
- meeting frequency
- method of reaching decisions

This list can be enhanced with the addition of items that are particular to your workplace and that the function of the committee would benefit from having them included. Training for committee members is essential and should be included as a

priority in the document. It must be done in a timely manner and have the right of the campus associations/unions to have meaningful input on all aspects of the training.

In Quebec, the rules of operation⁷ specifically include the need for any vacancies on the committee to be filled within 10 days if it is a committee chair and within 30 days for other committee members. This requirement ensures a full complement and effective quorum for meetings and carrying out of the committee duties.

Ability to Participate on the JHSC in an Academic Setting

It is often difficult for academic staff to participate on JSHC's due to the nature of their work. In other sectors, workers often have a replacement worker take over their duties while on committee business, or some other alternative so that the employer meets the requirement of the Act to pay worker JHSC reps while carrying out committee duties. Prince Edward Island's Rules of Procedure⁸ note the difficulty of the impact of shift work on meeting participation and the requirement for those workers to be compensated.

Academic associations are negotiating language during collective bargaining for JHSC release time or using work release time for that purpose. The Brock University Faculty Association (BUFA) makes use of the following language to gain release time for effective participation for their association JHSC members (BUFA has determined that a full course is necessary based on the workload of its H&S Officer):

40.09 The University will provide the Union with releases from teaching equal to seven (7) full courses each academic year. In years in which the negotiation of this Collective Agreement extends past September 1, the University will provide the Union with releases from teaching equal to nine (9) full courses for that academic year. Unused course releases may be carried forward by the Union. The Union shall be entitled to purchase additional course-load reductions, or equivalent, at the overload rate then in effect. This arrangement is applicable only to this Article and without prejudice to the more general arrangements for reduced workload with pro-rated pay specified in Article 26 (Reduced Load) of this Agreement. The actual division of such load reductions among the officers and/or representatives of the Union shall be decided by the Union. The Union undertakes to inform the University by May 1 of its intentions for the following academic year respecting both purchase and division of release time.

In the case of a professional librarian member, release from one (1) seven-hour (7-hour) shift per week for a ten-month (10-month) period shall be deemed to be equivalent to one (1) full course release from teaching, although that release time may be distributed over the week in other mutually agreeable ways. In the event that a professional librarian member's workload cannot be reduced by the amount of release time purchased by the Union, the member will be paid an overload stipend (e.g. a half-course overload stipend will be paid if the Union purchases the equivalent of one (1) seven-hour (7-hour) shift per week for a five-month (5-month) period).

This is an excellent model for other associations.

Annual Review

All terms of reference/rules of procedures must contain an annual or biannual mechanism for a review of the contents of the document. While it may not be necessary to amend the rules of procedure during the review, it should be done in case the legislation has changed, there are outdated references or procedures, or new additions are needed to reflect the evolving changes in the workplace.■

Toolkit

Ontario Public Service Employees Union

(OPSEU) – Health & Safety: A Worker’s Guide to the Occupational Health & Safety Act, April 2010 www.opseu.org

Public Service Alliance of Canada (PSAC) – Health & Safety Toolkit, Section 12 www.psac.com

References

McMaster University, JHSC Member Handbook, Terms of Reference Appendix C www.workingatmcmaster.ca/link.php?link=eohss:jhsc-tools

Canadian Union of Public Employees (CUPE), Health and Safety 101 – A Guide to Understanding Your Rights & the Principles of Ontario Health and Safety Act of Ontario

Endnotes

1. Occupational Health & Safety Committees Guide July 2004, SafeWork Newfoundland & Labrador
2. CCOHS – Health and Safety Committees Reference Guide, 2nd Edition
3. Joint Health and Safety Committee Terms of Reference, University of Toronto
www.ehs.utoronto.ca/committees/HSCComm.htm
4. University of Guelph www.kemptonvillec.uoguelph.ca/emergency.html
5. Acadia University healthandsafety.acadiau.ca/committees.html
6. Joint Occupational Health and Safety Committees: A Practical Guide for Single Employer Workplaces, Procedures of Joint Occupational Health and Safety Committees, Nova Scotia
7. Regulation respecting health and safety committees, Division V Rules of Operation; CSST
8. Guide to Workplace Health & Safety Committees, Rules of Procedure; Workers Compensation Board of PEI

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