

May 16, 2024

Labour Relations Code Review Panel

Ministry of Labour

Panel Members:

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Re. Submission in response to recommendations to the Special Committee to Review the *Labour Relations Code*

We make this submission on behalf of the Confederation of University Faculty Associations of British Columbia (CUFA BC). CUFA BC is a provincial organization that represents 5,500 faculty members through their unionized faculty associations at BC's research universities, including the University of British Columbia, Simon Fraser University, University of Victoria, University of Northern British Columbia, and Royal Roads University. For more than fifty years, we have promoted the value of high-quality post-secondary education; academic freedom; university governance; academic labour relations; and research and teaching to the provincial government and wider public.

CUFA BC was invited to make written submission to this committee but we did not make recommendations for change since the unionized faculty associations at BC's research universities were largely satisfied with the existing *Labour Relations Code* ("the Code"). In the wake of submissions received by other stakeholders, specifically from the employer organizations and non-unionized associations in the post-secondary sector, we would like to respond with our own recommendations.

CUFA BC cautions against substantive changes to the *Code* and prioritizes overall stability in our sector. The *Code* as it exists today is sufficiently balanced for the parties of a collective agreement. The *Code* provides reasonable recourse for the parties to navigate complex labour relations disputes on BC's campuses.

The following comments respond to specific recommendations in the submissions from employer organizations, including the Research Universities Council of British Columbia (RUCBC) and the Post-Secondary Employers' Association (PSEA), as well as non-unionized professional staff associations, including the Administrative and Professional Staff Association (APSA) at SFU and the Association of Administrative and Professional Staff (AAPS) at UBC.



Maintain Current Definition of Employee

The current definition of employee under the *Code* must be maintained. *Employee* is defined in a clear, concise manner and in alignment with the *Code* and the spirit of section 2(d) of the Charter of Rights and Freedoms. Any expansion to include those who would be managers and supervisors would undermine the very definition of a trade union and the definition of “employee.” For associations like APSA and AAPS, they represent many who are categorized as managers, as much as 30% of APSA’s membership comprises managers. We must maintain separation between employees and managers who hold competing interests. There would be wide and long-term consequences for allowing access to people who are not deemed employees. Any change to the definition of employee will contribute to escalated labour unrest. These changes would unnecessarily burden the labour board, unions, employers, and workers with costly and time-consuming disputes as the parties seek to operationalize a novel understanding of “employee” in the local context. These definitions aren’t gatekeeping so much as they are essential guidelines that help trade unions, workers, and employers navigate their workplace relationships. As always, certification is the mechanism through which well-respected associations like APSA and AAPS can access the *Code* to achieve their labour relations goals.

Maintain Limit on Essential Services

We strongly recommend against expanding essential services to include faculty. Faculty must have the right to strike. The vast majority of academic staff are not essential service providers at BC’s research universities. Striking faculty would rarely pose a threat to the health, safety, or welfare of the community members on campus or residents of BC. Changes in this definition would categorically shift the balance of power in favour of employers while undermining workers’ rights to collectively bargain or withhold their labour.

Maintain Limits on Replacement Workers

We recommend maintaining existing limits on replacement workers during strike or lockout. We reject the recommendation to change the replacement worker provision in Section 68(1)(a) advanced by the employer association RUCBC. Their rationale focuses on a shortage of workers at the manager level and retention challenges over the course of collective bargaining. The recommendation would see a shift to the freeze on hiring replacement staff during strike or lockout. This freeze normally starts at the moment notice to collective bargain is issued but the employer suggests this is not tenable and unfairly advantages the union. We disagree with this rationale and further disagree that the employer’s challenges with hiring and retaining managers ought to require a qualitative change to the *Code*. The notice to commence bargaining can be issued by either party to



the collective agreement and involves a whole suite of provisions that bridge between the expired agreement and the time when a new collective agreement comes into force. The provision for hiring replacement workers aligns with the existing practice of anchoring timelines to the notice to commence bargaining.

Maintain Access to Expedited Grievance

We recommend maintaining access to the expedited grievance process. Faculty unions and employers are historically judicious in selecting appropriate mechanisms for dispute resolution. We respond to RUCBC and PSEA suggestions to curtail access to expedited grievance with our own counter that expedited grievances are rarely invoked under Division 4 of the *Code*, it is a necessary process that is only used in limited circumstances.

Affirm Union Independence & Autonomy

We recommend against consolidating multi-bargaining unit structures. Post-secondary institutions are complex organizations and the employee structure proportionately and fairly reflects this complexity. The RUCBC and PSEA employer organizations have suggested that having multiple bargaining units is no longer appropriate, claiming blurred lines between different employee groups as a result of technological advancements and other changes to the workforce. We understand no such blurring of employee groups, which each have unique and significant community of interests that are well established over decades. The strength of labour relations in universities is borne from the clearly articulated collective agreements on behalf of the parties. Having multiple unions on campus also entails multiple focused collective agreements tailored to specific bargaining unit work. We don't believe there is value in expanding to omnibus-style collective agreements with behemoth memberships or that it would contribute to harmonious labour relations.

We believe these recommendations will uphold the spirit and intent of the BC *Labour Relations Code* in contributing to strong labour relations at BC's public universities. Should you have any questions, please reach out to our office via Executive Director Annabree Fairweather at executive.director@cufa.bc.ca or at 604-646-4677 ext.100.

Thank you for your time and consideration of our input.

Sincerely,

Dr. Ken Christie
President