



Parliamentary Employment and Staff Relations Act Annual Report

**APRIL 1, 2016 to
MARCH 31, 2017**

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Public Service Labour Relations and Employment Board

Chairperson: Catherine Ebbs

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Part-time Member: Dev A. Chankasingh

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Message from the Chairperson

I am pleased to submit to Parliament the annual report on the administration of the *Parliamentary Employment and Staff Relations Act (PESRA)* for the period from April 1, 2016, to March 31, 2017.

The Public Service Labour Relations and Employment Board (the Board or PSLREB) is an independent quasi-judicial statutory tribunal established by the *Public Service Labour Relations and Employment Board Act (the PSLREB Act)*. The Board administers the collective bargaining and grievance adjudication systems in the federal public service and in Parliament under the *PESRA*, resolves staffing complaints about internal appointments and layoffs in the federal public service, and resolves pay equity matters. The Board also has a mandate to interpret the *Canadian Human Rights Act* and human-rights-related issues as they relate to its statutory mandate. Since the coming into force of the *PSLREB Act* in late 2014, the Board's work has been supported by the PSLREB Secretariat of the Administrative Tribunals Support Service of Canada (ATSSC).

The PSLREB provides impartial labour relations and staffing adjudication and dispute resolution services to promote the stability of the federal public service workforce, which is necessary for the timely delivery of services and programs to Canadians.

During a continued period of legislative change affecting its work, the Board has revisited how best to ensure uninterrupted service excellence while looking toward the future integration of its additional mandates. This vision encompasses the values of fairness and transparency in its proceedings, well-reasoned decision making, and other principles that uphold access for its clients as well as stakeholder engagement. The Board has also identified three key

priorities: exploring different approaches to managing the volume of files before it, modernizing and integrating its case management and scheduling systems, and seeking additional efficiencies. The Board is committed to the continuous improvement of its processes and procedures and to providing effective resolutions of the matters before it.

I am pleased to report that this past fiscal year saw the initiation of a Client Consultation Committee (CCC) on staffing matters and ongoing work with the CCC on labour relations issues. I appreciate the enduring commitment of our stakeholders in engaging in constructive dialogue on expedited hearings, case management, and scheduling, among other areas.

The coming year will mark many important milestones with respect to the legislation administered by the Board. Notably, in 1967, the federal government introduced the *Public Service Staff Relations Act*, which essentially extended collective bargaining rights to government workers and allowed them the option of arbitration or the right to strike to settle disputes. This coming year will also mark the 14th year of the passage of the *Public Service Modernization Act* and the consequent enactment of the *Public Service Employment Act*, in addition to the modernized *Public Service Labour Relations Act*.

I would like to take this opportunity to thank the Board members and the staff of the PSLREB Secretariat and of the ATSSC for their unfailing dedication and professionalism in supporting the work of the Board. I look forward to continuing our work with stakeholders on both staffing and labour relations matters and on the Board's priorities in the year to come.

Catherine Ebbs

**Chairperson
Public Service Labour Relations and Employment Board**



Introduction

Part I of the *Parliamentary Employment Staff Relations Act (PESRA)* gives employees of parliamentary institutions the right to form a union to negotiate collectively the conditions of their employment. It also gives employees the right to file grievances about those conditions and, in certain cases, to refer them to adjudication before a neutral third party.

Part I is administered and applied by the Public Service Labour Relations and Employment Board (the PSLREB or the Board), a quasi-judicial tribunal established under the *Public Service Labour Relations Act (PSLRA)*.

The Board is composed of a chairperson, up to 2 vice-chairpersons, up to 10 full-time Board members, and additional part-time Board members as required. Full-time Board members are appointed by the Governor in Council for terms of no longer than five years, and part-time Board members for terms of up to three years, and both may be reappointed any number of times.

Under the *PESRA*, the Board hears several different matters: applications by employee organizations for certification to become bargaining agents representing employees, complaints of unfair labour practices, designations of persons employed in managerial and confidential capacities, and adjudications of disputes.

The Board also adjudicates grievances concerning the interpretation and application of provisions of collective agreements, significant disciplinary action, and all forms of termination of employment except rejection on probation during initial appointments. Grievances concerning demotions, appointments, and classification may also be referred to adjudication but are determined not by a Board member but by an external adjudicator chosen by the parties, which are equally responsible for the adjudicator's compensation and expenses.

Through its mediation services, the PSLREB also assists parties unable to resolve their disputes at the bargaining table. This assistance may lead to a resolution without the need for the dispute to be heard formally by the Board or may limit the number of issues.

Under the *PESRA*, arbitration is the only means of resolving disputes if bargaining comes to an impasse. In these situations, the Board acts as an arbitration board. Upon receiving a request for arbitration, the Chairperson appoints a tripartite panel composed of two persons representing the interests of each party, along with a Board member who chairs the panel. Such panels are deemed to act as the Board for the purposes of dealing with the dispute. After hearing the parties, the panel renders a decision on the issues in dispute. These decisions form part of collective agreements and are binding on the parties and on employees.

Proposed Legislative Changes

Last year's annual report provided an overview of several legislative changes that were moving through Parliament or the Senate or that had been passed into law.

Among these is Bill C-4: *An Act to amend the Canada Labour Code, the Parliamentary Employment and Staff Relations Act, the Public Service Labour Relations Act and the Income Tax Act*, which restores the processes for the certification and the revocation of certification of bargaining agents that existed before the *Employees' Voting Rights Act*, S.C. 2014, c. 40, came into force on June 16, 2015. The House of Commons adopted the bill on October 19, 2016. The bill was being debated by the Senate in third reading as of March 31, 2017.

Also, Bill C-7: *An Act to amend the Public Service Labour Relations Act, the Public Service Labour Relations and Employment Board Act and other Acts and to provide for certain other measures* provides for a labour relations regime for members of the Royal Canadian Mounted Police (RCMP) and reservists. It provides a process for an employee organization to acquire collective



bargaining rights for members and reservists and includes provisions that regulate collective bargaining, arbitration, unfair labour practices, and grievances. It also amends the *Royal Canadian Mounted Police Act* to bar grievances related to the interpretation and application of a collective agreement or arbitral award, which are to be filed in accordance with the *PSLRA*.

The bill changes the titles of the *PSLRA* and the *Public Service Labour Relations and Employment Board Act* and the name of the PSLREB. It also amends the latter Act to increase the maximum number of full-time Board members and to require the Chairperson, when making recommendations for appointment, to take into account the need for two members with knowledge of police organizations.

The bill also removes the exclusion of RCMP members from the workers' compensation scheme under the *Government Employees Compensation Act*. The bill was awaiting second reading in the House of Commons as of March 31, 2017.

Bill C-34: *An Act to amend the Public Service Labour Relations Act and other Acts* restores the procedures for the choice of process of dispute resolution, including those involving essential services, arbitration, conciliation, and alternate dispute resolution that existed before parts of the *Economic Action Plan Act 2013, No. 2*, came into force on December 12, 2013. The bill was awaiting second reading in the House of Commons as of March 31, 2017.

For more information on all proposed legislative changes affecting the Board's mandate, please refer to the PSLREB Annual Report, which is posted on its website: http://pslreb-crtefp.gc.ca/about/reports_e.asp.

Other Responsibilities

The bulk of the PSLREB's caseload falls within its responsibilities under the *PSLRA*, through which it administers the collective bargaining and grievance adjudication systems in the federal public service, and under the *PSEA*, through which it administers the process for internal appointment and layoff complaints in the federal public service.

Under the *PSLRA* and the *PSEA*, the PSLREB provides two main services: adjudication and mediation. Its clients include approximately 225 000 federal public service employees covered by the *PSLRA* and by numerous collective agreements.

Under an agreement with the Yukon government, the PSLREB administers its collective bargaining and grievance adjudication systems, acting as the Yukon Teachers Labour Relations Board and the Yukon Public Service Labour Relations Board.

Proceedings before the Public Service Labour Relations and Employment Board

There are four types of adjudicable grievances under the *PESRA*:

- The first type arises from the application or interpretation of collective agreements or arbitral awards.
- The second type includes disciplinary action resulting in a suspension or financial penalty and termination of employment for reasons other than rejection on probation for an initial appointment.
- The third type includes grievances related to demotions of employees, to denials of appointment, and to classification. They are heard and determined by an adjudicator selected by the parties who is not a member of the PSLREB.



- The fourth type refers to policy grievances under section 70 of the *PESRA*, which requires that the PSLREB look into allegations that cannot be the subject of a grievance by an individual employee. Those situations occur when the employer or the bargaining agent seeks to enforce an obligation alleged to arise from a collective agreement or an arbitral award.

As of March 31, 2017, 25 new cases had been filed with the PSLREB. Of these, 21 were grievances, including 2 policy grievances, 2 were complaints (one about the duty of fair representation and one in which the bargaining agent alleges that the employer failed to bargain), 1 was a request for arbitration, and 1 was an objection to the identification of a managerial or confidential position. See Table 3 for a list of grievances by type, complaints, and applications before the PSLREB from April 1, 2014 to March 31, 2017.

The PSLREB disposed of 11 cases during the period under review, 1 of which involved an arbitral award, and another of which involved a decision being issued. The remainder of the cases were withdrawn.

Fifty (50) cases will be carried forward into 2017-2018, 15 of which involve the Parliamentary Protective Service (PPS), including 2 applications, from the Public Service Alliance of Canada and the PPS respectively. Both applications are for the Board to determine a unit appropriate for collective bargaining. The remaining cases being carried forward into next year include 18 involving the House of Commons, 6 involving the Library of Parliament, 10 involving the Senate, and 1 involving the Office of the Conflict of Interest and Ethics Commissioner. See Table 4 for a list of grievances and Board cases carried forward, received, and completed between April 1, 2014 and March 31, 2017.

Collective Bargaining

The PSLREB carried over from the previous year, one request for the appointment of a conciliator as well as five requests for the establishment of arbitration boards under section 50 of the *PESRA*. The conciliation session took place early in the year and provided the parties with the opportunity to reduce the number of outstanding issues. One arbitration board was established to hear the remaining outstanding issues in this matter. In total, three hearings took place over the course of the year, and one decision was issued. Hearings are scheduled in the next fiscal year for the three remaining arbitration boards.

Mediation

When a file is referred to adjudication, the parties may choose to resolve the matter without resorting to a formal hearing. In such cases, they may proceed to mediation with the assistance of the Dispute Resolution Services (DRS) of the PSLREB secretariat.

In 2016-2017, two mediations were held and the parties successfully reached a settlement in both cases. The mediations dealt with three files: one policy grievance and two individual grievances.

Reasons for Decision Issued

In 2016-2017, the PSLREB issued one formal decision and an arbitral award under the *PESRA*.



Tables

TABLE 1: Bargaining Units and Bargaining Agents under the *Parliamentary Employment and Staff Relations Act* as of March 31, 2017

Bargaining agents	Number of bargaining units	Number of public service employees
House of Commons		
Professional Institute of the Public Service of Canada	1	71
Public Service Alliance of Canada	3	417
Unifor, Local 87-M	1	77
TOTAL	5	565
Library of Parliament		
Canadian Association of Professional Employees	1	126
Public Service Alliance of Canada	2	108
TOTAL	3	234
Office of the Conflict of Interest and Ethics Commissioner		
No bargaining agent	0	50
Office of the Senate Ethics Officer		
No bargaining agent	0	11
Parliamentary Protective Service		
House of Commons Security Services Employees Association	1	231
Senate Protective Service Employees Association	1	110
Public Service Alliance of Canada	1	119
TOTAL	3	460
Senate of Canada		
Professional Institute of the Public Service of Canada	1	32
Public Service Alliance of Canada	1	85
TOTAL	2	117
GRAND TOTAL	13	1 426

TABLE 2: Number of Bargaining Units and Public Service Employees by Bargaining Agent as of March 31, 2017

Certified bargaining agent	Number of bargaining units	Number of public service employees in non-excluded positions
Canadian Association of Professional Employees (CAPE)	1	108
House of Commons Security Services Employees Association (HCSSEA)	1	234
Professional Institute of the Public Service of Canada (PIPSC)	2	110
Public Service Alliance of Canada (PSAC)	7	614
Senate Protective Service Employees Association (SPSEA)	1	87 ¹
Unifor, Local 87-M	1	75
TOTAL	13	1 228

*The figures in Table 1 were provided by the employers and those in Table 2 by the bargaining agents.

**The total in Table 2 does not equal the total indicated in Table 1 because the employees in Table 1 generally include those both represented and not represented by a bargaining agent.

¹ From Labour organizations in Canada, published in November 2015, by Employment and Social Development Canada



**TABLE 3: Grievances, Complaints, and Applications Received,
April 1, 2014 to March 31, 2017**

Fiscal Year	Grievances				Complaints	Applications		Total
	Interpretation or application Para. 63(1)(a)	Discipline - suspension, financial penalty, and termination Paras. 63(1) (b) & (c)	Demotion, denial of appointment, and classification Paras. 63(1) (d), (e), & (f)	Policy ss. 70(1)	Complaints ss. 13(1)	Request for arbitration s. 50	Other sections of the PSEA	
2014-2015*	1	1	0	0	0	1	0	3
2015-2016	12	8	1	2	0	5	4	32
2016-2017	8	2	9	2	2	1	1	25

*The 2014-2015 data reflect caseloads under the PSLRA from the former PSLRB for the period from April 1, 2014, to October 31, 2014, and from the PSLREB for the period from November 1, 2014, to March 31, 2015.

TABLE 4: Grievances and Board Cases Carried Forward, Received, and Completed, April 1, 2014 to March 31, 2017

Fiscal year	Carried forward from previous years	Received	Total new	Closed	Carried forward to next year
2014-2015*	16	3	19	7	12
2015-2016	12	32	44	8	36
2016-2017	36	25	61	11	50

*The 2014-2015 data reflect caseloads under the PSLRA from the former PSLRB for the period from April 1, 2014, to October 31, 2014, and from the PSLREB for the period from November 1, 2014, to March 31, 2015.