



Federal Public Sector
Labour Relations and
Employment Board

Commission des relations
de travail et de l'emploi
dans le secteur public fédéral

*Parliamentary Employment and
Staff Relations Act*

**April 1, 2020 to
March 31, 2021**

Annual Report

The Honourable Dominic LeBlanc MP
Minister of Infrastructure and Communities
House of Commons
Ottawa ON K1A 0A6

Dear Minister,

As the newly appointed chairperson of the Federal Public Sector Labour Relations and Employment Board since April 2021, it is my pleasure to transmit to you, pursuant to section 84 of *Parliamentary Employment and Staff Relations Act*, this Annual Report of the *Parliamentary Employment and Staff Relations Act*, covering the period from April 1, 2020, to March 31, 2021, for submission to Parliament.

I also want to take this opportunity to congratulate Catherine Ebbs on her years of service as chairperson of the Board from July 2014 to March 2021 and express my appreciation for her dedication to the Board and its mandate.

Yours sincerely,

Edith Bramwell
Chairperson
Federal Public Sector Labour Relations and Employment Board

Table of Contents

Message from the Chairperson	5
Part 1: The Federal Public Sector Labour Relations and Employment Board	6
Who we are	6
Composition of the Board	6
The Board's overall mandate	6
The Board's mandate under the <i>Parliamentary Employment and Staff Relations Act (PESRA)</i>	6
Legislative changes impacting our mandate	7
The open court principle	7
Part 2: What we do	8
Our commitment	8
Our activities	8
Collective bargaining	8
Mediation and dispute resolution	8
Adjudication	8
Types of matters heard under the <i>PESRA</i>	9
Part 3: Caseload Overview	10
Files opened and closed	10
Active caseload before the Board	10
Mediation	11
Collective bargaining	11
Part 4: What we did differently	12
The COVID-19 Pandemic	12
New Case Flow Initiative	12
Part 5: Changes and Opportunities	13
The Way Forward	13
Videoconferencing	13
Caseload	13
New composition of the Board	13
Table 1 : Bargaining agents and bargaining units under the <i>Parliamentary Employment and Staff Relations Act</i> as of March 31, 2021 by employer	14
Table 2 : Bargaining units and public service employees, by bargaining agent, as of March 31, 2021 ...	15

Message from the Chairperson

The 2020-2021 reporting period was a year marked by unprecedented change, significant challenges, as well as new opportunities for the Federal Public Sector Labour Relations and Employment Board (“the Board”) – many of which were precipitated by the COVID-19 pandemic. I am very proud of the flexibility, cooperation and professionalism Secretariat employees and Board members demonstrated as they adapted to a new, more digital working environment for the first time in the Board’s history.

While hearings were initially postponed, in-person meetings were cancelled, and our regulatory timelines were suspended at the onset of the pandemic, we worked tirelessly together to ensure we continued to meet the needs of our stakeholders and clients.



The introduction of videoconferencing for hearings, case-management conferences, pre-hearing matters, and mediations marked a fundamental shift in the manner in which we conduct our business. The Board worked closely with the parties appearing before it to ensure that its videoconferencing services were as efficient as possible. Guidelines for effective videoconference hearings and mediations were developed and shared with the parties, and a COVID-19 tracking project was created to monitor our progress resolving the cases that were postponed because of the pandemic.

While our approach to managing our caseload has undergone considerable and productive changes over the years, I am pleased to note that as part of our commitment to continue to modernize and enhance our existing case-management strategies, a new Case Flow Initiative was launched during the year. The goal of this initiative is to increase access to justice for Canadians by reducing unnecessary delays and resolving disputes as quickly and as efficiently as possible.

In closing, I should note that this reporting period is a particularly poignant one for me as it marks the end of my term as Chairperson. I feel fortunate to have been supported by an exceptional team of Board members, Secretariat employees, and other Administrative Tribunals Support Service of Canada staff for the past seven years. Thanks to their outstanding efforts and commitment to excellence, the Board continued to function at optimal capacity this past year while maintaining its enviable and long-standing reputation as a leader in the labour relations field.

Catherine Ebbs
Chairperson
Federal Public Sector Labour Relations
and Employment Board

Part 1: The Federal Public Sector Labour Relations and Employment Board

Who we are

Composition of the Board

The *Federal Public Sector Labour Relations and Employment Board Act* establishes the Board's composition as follows:

- 1 full-time chairperson;
- not more than 2 full-time vice-chairpersons;
- not more than 12 full-time members; and
- as many part-time members as necessary to carry out the Board's powers, duties, and functions.

During the reporting period, the Board was composed of the following members:

Catherine Ebbs, Chairperson
David P. Olsen, Vice-Chairperson
Margaret T.A. Shannon, Vice-Chairperson

Full-time Board members

Nathalie Daigle
Bryan R. Gray
Chantal Homier-Nehmé
John G. Jaworski
Steven B. Katkin
James Knopp
David Orfald
Marie-Claire Perrault
Nancy Rosenberg

Part-time Board members

Joanne Archibald
Dan Butler
Paul Fauteux
Linda Gobeil
Ian R. Mackenzie
Renaud Paquet
Augustus Richardson

The Board's overall mandate

The Federal Public Sector Labour Relations and Employment Board ("the Board") is an independent, quasi-judicial statutory tribunal that offers dispute resolution and adjudication services in key labour relations and employment areas of the federal public sector and Parliament. It also administers the related collective bargaining and grievance adjudication processes, and it helps resolve complaints about internal appointments, appointment revocations, and layoffs.

The Board also resolves human-rights issues in areas that range from labour relations grievances and staffing complaints to unfair labour practices and collective bargaining. It is also responsible for administering public-sector-employee reprisal complaints under the *Canada Labour Code (CLC)*.

As of 2019, the Board's mandate was broadened to include complaints from federal public sector and parliamentary employees that are related to the *Accessible Canada Act*, which establishes a framework for the proactive identification, removal, and prevention of barriers to accessibility for persons with disabilities.

The Board's mandate under the *Parliamentary Employment and Staff Relations Act (PESRA)*

Among other legislation, the Board administers Part I of the *PESRA* and aims to resolve disputes that arise between parliamentary employees and their employer. The *PESRA* covers employment and labour relations at the Library of Parliament, the House of Commons, the Senate, the Office of the Senate Ethics Officer, the Office of the Conflict of Interest and Ethics Commissioner, the Parliamentary Protective Service, and the Parliamentary Budget Officer.

Part I of the *PESRA* gives parliamentary employees the right to form a union and to engage in collective bargaining to establish their terms and conditions of employment. It also gives them the right to file grievances about those conditions and, in certain cases, to refer them to adjudication before a neutral third party. The Board can also hear different matters under the *PESRA*, such as applications for certification, unfair labour practice complaints and designations of persons employed in managerial and confidential capacities. It can also hear grievances about the interpretation and application of collective agreement or arbitral award provisions, disciplinary action resulting in a suspension or financial penalty, demotion of an employee, denial of an appointment, classification of an employee and all forms of termination of employment except rejections on probation during initial appointments.

The *PESRA* also gives the Board authority to hear grievances about contraventions of regulations under the *Accessible Canada Act*, if the employee has been adversely affected as a result of the contravention.

Legislative changes impacting our mandate

Since July 29, 2019, the FPSLREB has had a mandate for health and safety matters under Part II of the *Canada Labour Code (CLC)* for parliamentary employees covered by the *PESRA*, including for (1) complaints of reprisals, (2) appeals of “work refusal” decisions with respect to an “absence of danger”, and (3) appeals of directions with respect to a complaint related to a contravention of the *CLC*.

On January 1, 2021, changes came into force with respect to the administration and enforcement of Part II of the *CLC*. Among those changes, a protection from workplace harassment and violence was brought into Part II of the *CLC*'s occupational health and safety regime. These amendments strengthen the framework for the prevention of harassment and violence, including sexual harassment and violence, in the workplace.

The recourse mechanisms under Part II of the *CLC* could be used by parliamentary employees alleging violence or harassment in the workplace, as well as any other matters that relate to the prevention of any accidents, illnesses, or injuries, including psychological illness and injury; and the Board may be called upon to adjudicate related reprisal complaints and certain appeals.

The open court principle

In accordance with the constitutionally protected open court principle, the Board's hearings are open to the public, except for exceptional circumstances. As such, it acts according to its [Policy on openness and privacy](#) to foster transparency in its processes, as well as accountability and fairness in its proceedings.

Part 2: What we do

Our commitment

- Contribute to a fair employment environment and harmonious labour relations within the federal public sector.
- Resolve labour relations and employment issues impartially and fairly.
- Help parties resolve disputes in a fair, credible, and efficient manner that respects the terms and conditions of employment.

Our activities

Collective bargaining

In the context of collective bargaining, the PESRA provides for only one means of resolving disputes if bargaining reaches an impasse: interest arbitration. In those situations, the Board acts as an interest arbitration board. Its chairperson appoints a tripartite panel composed of a Board member as the chair and two others who represent the parties' interests. Such panels are deemed to act as the Board for the purpose of dealing with the bargaining dispute. They render binding decisions, which form parts of collective agreements.

Mediation and dispute resolution

Through its Mediation and Dispute Resolution Services (MDRS), the Board provides various mediation and dispute resolution services to help parties resolve their disputes by reaching a mutually acceptable agreement without resorting to a hearing. Mediation is a confidential, voluntary process led by an independent and impartial third party.

Adjudication

Adjudication as a procedure aims to resolve disputes through a legal process in which parties present their evidence and make their arguments, after which a binding decision is issued. The process is similar to that of a court hearing but is less formal. When a matter is not resolved through the case-management process or mediation, it proceeds to a hearing, which the Board ensures is fair and full.

At a hearing, each party is given the opportunity to submit evidence by way of witnesses and relevant documents and to make submissions to support its position. Testifying witnesses and parties may be subject to cross-examination. All exhibits must be provided in sufficient copies for the presiding Board member, all the parties, as well as any witnesses, as needed.

After the hearing ends, a well-reasoned decision is issued, and each party receives a copy. Once they are available in both official languages, all decisions are posted on the Board's [website](#).

Types of matters heard under the *PESRA*

The following types of matters may be adjudicated under the *PESRA*:

- an application for certification or the revocation of certification, or an application for the designation of a person employed in a managerial or confidential position;
 - an unfair labour practice complaint;
 - a grievance related to the interpretation or application in respect of the employee of a collective agreement provision or an arbitral award;
 - a grievance against a disciplinary action resulting in a suspension or financial penalty or against a termination of employment for a reason other than a rejection on probation for an initial appointment;
 - a grievance about a demotion, a denial of an appointment, or classification (i.e. the parties select an adjudicator who is not a Board member to hear and determine such grievances);
- a grievance about a contravention of the regulations under the *Accessible Canada Act*, if the employee has been adversely affected as a result of the contravention.
 - a policy grievance filed under s. 70 of the *PESRA*, which requires that the Board look into allegations that cannot be the subject of a grievance filed by an individual employee; this occurs when an employer or a bargaining agent seeks to enforce an obligation alleged to have arisen from a collective agreement or an arbitral award.

Part 3: Caseload overview

Files opened and closed

Between April 1, 2020, and March 31, 2021, 3 new files were referred or presented to the Board. Of those, 2 were grievances involving a termination – 1 related to the Parliamentary Protective Service and 1 related to the House of Commons; 1 was a complaint related to the House of Commons involving a failure to implement an arbitral award.

During the same period, 10 matters under the *PESRA* were closed. Of those, 3 resulted in a decision being issued, 5 were withdrawn and 2 were settled between the parties.

Active caseload before the Board

In addition to the 6 new files received in 2020-2021, 73 files were carried forward from 2019-2020. Sixty-six (66) files will be carried forward into the next fiscal year, including 42 individual grievances, 10 complaints, 10 applications and 4 policy grievances. forty-eight (48) of those files involve the Parliamentary Protective Service, 8 involve the Senate, 8 involve the House of Commons and 2 involve the Library of Parliament.

Figure 1 provides an overview of files carried forward, received, and closed under the *PESRA* from April 1, 2018, to March 31, 2021.

FIGURE 1: FILES CARRIED FORWARD, RECEIVED, AND CLOSED UNDER THE *PESRA* FROM APRIL 1, 2018, TO MARCH 31, 2021

FISCAL YEAR	CARRIED FORWARD FROM PREVIOUS YEAR	TOTAL NEW	CLOSED	CARRIED FORWARD TO NEXT YEAR
2018-2019	66	26	15	77
2019-2020	77	12	16	73
2020-2021	73	3	10	66

Mediation

In 2020-2021, the MDRS conducted 2 mediations under the *PESRA* legislation; 1 mediation resolved a termination grievance while the second one concerned 2 complaints following the implementation of the terms of an arbitral award and the obligations of employer and employee organizations following the conclusions of a collective agreement.

Collective bargaining

The Board carried forward one request for arbitration from the previous year for which an arbitral award was issued in 2020-2021. As well, 3 new requests for arbitration were received in the 2020-2021 fiscal year. Of those 3 requests, 2 arbitration boards were established and conducted their hearings during the latter part of the year, with arbitral awards to be issued in the following fiscal year. The remaining request for arbitration resulted in an arbitration board being established for 2021-2022.

Part 4: what we did differently

The COVID-19 Pandemic

The effects of the COVID-19 pandemic continued to be felt by the Board throughout the reporting period. To comply with the federal government's public health measures, all in-person hearings and mediation sessions were postponed during the early months of the pandemic, and all regulatory time frames for complaints, grievances, and Board matters were temporarily suspended. Every effort was made by the Board to mitigate the impact of the pandemic on its already significant caseload and to ensure that the work continued and that the needs of its clients were met during a particularly challenging time.

Employees and Board members readily adapted to teleworking and the move from a paper to an electronic environment, which represented a fundamental shift in the way in which the Board worked. Mediators also quickly became proficient at holding mediation sessions by videoconference. They embraced the shift to online services, and their patience cultivating a comfort level among their client base and the parties enabled them to continue to assist the parties to resolve their disputes and maintain harmonious relationships.

The Board used its website to provide regular information updates on how it was responding to the pandemic. As all in-person meetings were no longer permitted, it sought effective and convenient methods to help its stakeholders resolve their collective bargaining disputes and to continue to offer its mediation and adjudication services in a format that was acceptable to all.

In order to reduce the impact of the pandemic on its overall activities, the Board launched two projects, the first of which was to immediately establish a working group to investigate conducting hearings by videoconference. By late June 2020, the Board adopted its videoconferencing guidelines and held its initial hearings using Zoom in that same period. The Board also launched a COVID-19-tracking project to monitor its progress dealing with the postponed hearings.

Given the success and acceptance of videoconferencing, moving forward, the Board will continue to use this technology to schedule new matters and, as much as possible, to conduct adjudication and mediation hearings and to resolve collective bargaining disputes.

New Case Flow Initiative

To respond to the growing need for a more comprehensive, modern, and effective case-management solution, the Chairperson led the way for the Board's new Case Flow Initiative, which includes dedicating resources solely to enhancing the Board's existing case-management strategies and tools. The ultimate goal of this initiative is to increase access to justice by reducing unnecessary delays and resolving disputes as quickly and efficiently as possible while maintaining high-quality service — from the time a file is received to the time it is resolved.

A new director was appointed toward the end of the reporting period to create and lead the Case Flow Initiative team's activities, which will include an ongoing analysis of the Board's overall caseload, registry systems, and mediation and hearing processes to create concise and measurable objectives and results tracking.

Part 5: changes and Opportunities

The Way Forward

Videoconferencing

The challenges brought about by the pandemic, combined with the Board's already large caseload, triggered a much-needed reflection about how the Board operates. While at the beginning of the reporting period, videoconferencing was virtually unheard of, it quickly became an integral component of the Board's way of working. Although it initially presented some challenges, it also delivered significant benefits, including more flexibility and greater efficiencies for the parties, the Board's stakeholders, Board members, and Secretariat employees.

Moving forward, the Board will focus on lessons learned during the past year and will discuss new ways of working to ensure that it continues to improve its processes and practices and that ultimately, it delivers exemplary dispute resolution and adjudication services.

Caseload

As the Board adapted its processes to respond to the pandemic, the pandemic also presented the Board with an opportunity to step back and reflect on an ongoing challenge – how to effectively manage its large caseload.

Through its Case Flow Initiative, the Board will use new technology to map and group its cases, which will help it develop strategies to increase access to justice for Canadians by resolving disputes as efficiently as possible. The Board will also examine different dispute resolution methods and ways to conduct its operations, such as earlier and more consistent case evaluation and management,

along with alternative scheduling approaches. Finally, the Board will seek to enhance the transparency of its processes by regularly communicating key milestones, progress, updates, and measurable results to both internal and external stakeholders.

The Board will ensure that the initiative's progress, key milestones, and concrete results will be communicated to stakeholders throughout each phase of the project.

New composition of the Board

In the year ahead, the composition of the Board will change significantly. A new chairperson will begin her term at the end of April 2021 and the terms of the two vice-chairpersons will expire in April 2021. As well, the terms of several full- and part-time Board members will expire in 2021 also. A process was conducted to fill all those positions, the objective of which will be to attain a full complement of Board members who will bring a broad range of experience and expertise to the Board, as well as fresh ideas and innovative ways to help it continue to improve its processes.

**TABLE 1: BARGAINING AGENTS AND BARGAINING UNITS UNDER THE *PESRA*,
AS OF MARCH 31, 2021, BY EMPLOYER (DATA PROVIDED BY EMPLOYERS)**

BARGAINING AGENT	NUMBER OF BARGAINING UNITS	NUMBER OF PUBLIC SERVICE EMPLOYEES
House of Commons		
Professional Institute of the Public Service of Canada	1	87
Public Service Alliance of Canada	2	400
UNIFOR, Local 87-M	1	95
Total	4	582
Library of Parliament		
Canadian Association of Professional Employees	1	122
Public Service Alliance of Canada	2	138
Total	3	260
Office of the Conflict of Interest and Ethics Commissioner		
No bargaining agent	0	46*
Office of the Senate Ethics Officer		
No bargaining agent	0	4
Office of the Parliamentary Budget Officer		
Canadian Association of Professional Employees	1	23
Parliamentary Protective Service		
Public Service Alliance of Canada	2	95
Union of Officers of the Parliamentary Protective Service**	1	454
Total	3	549
Senate of Canada		
Professional Institute of the Public Service of Canada	1	32
Public Service Alliance of Canada	1	92
Total	2	124
Grand total	13	1588

* Data shown is as of March 31, 2019.

** Pursuant to the Board's decision in [2020 FPSLRB 46](#), the House of Commons Security Services Employees Association and the Senate Protective Service Employees Association were merged into one, becoming the Union of Officers of the Parliamentary Protective Service as the bargaining agent for the bargaining unit described as "all Parliamentary Protective Service employees working as protection officers, protection supervisors, and protection managers", effective May 5, 2020. Data shown is as of March 31, 2018.

**TABLE 2: BARGAINING UNITS AND PUBLIC SERVICE EMPLOYEES, BY BARGAINING AGENT,
AS OF MARCH 31, 2021 (DATA PROVIDED BY BARGAINING AGENTS)**

CERTIFIED BARGAINING AGENT	NUMBER OF BARGAINING UNITS	NUMBER OF PUBLIC SERVICE EMPLOYEES IN NON-EXCLUDED POSITIONS
Canadian Association of Professional Employees*	2	153
Professional Institute of the Public Service of Canada	2	116
Public Service Alliance of Canada	6	594
UNIFOR, Local 87-M*	1	100
Union of Officers of the Parliamentary Protective Service**	1	410
Total	12	1373

* Data shown is as of March 31, 2020.

** Pursuant to the Board's decision in [2020 FPSLRB 46](#), the House of Commons Security Services Employees Association and the Senate Protective Service Employees Association were merged into one, becoming the Union of Officers of the Parliamentary Protective Service as the bargaining agent for the bargaining unit described as "all Parliamentary Protective Service employees working as protection officers, protection supervisors, and protection managers", effective May 5, 2020. Data shown is as of March 31, 2018.