



Federal Public Sector
Labour Relations and
Employment Board

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

Federal Public Sector Labour Relations
and Employment Board

2020-2021

Annual Report

The Honourable Filomena Tassi MP
Minister of Public Services and Procurement
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 42 of the *Federal Public Sector Labour Relations and Employment Board Act*, this Annual Report of the Federal Public Sector Labour Relations and Employment Board, 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	6
Part 1: The Federal Public Sector Labour Relations and Employment Board	7
Who we are	7
Composition of the Board	7
Mandate of the Board	7
The Board's jurisdiction	8
The open court principle	8
Part 2: What we do	9
Our commitment	9
Our activities	9
The Board's activities	9
Case management of matters before the Board	10
Matters filed with the Board	10
Part 3: What we did differently	11
The COVID-19 Pandemic	11
Managing the caseload	12
New Case Flow Initiative	13
Part 4: Caseload Overview – 2020-2021	14
<i>Federal Public Sector Labour Relations Act (FPSLRA)</i>	14
Files opened and closed under the <i>FPSLRA</i>	14
Overview of files under the <i>FPSLRA</i>	15
<i>Public Service Employment Act (PSEA)</i>	16
Files opened and closed under the <i>PSEA</i>	16
Overview of cases under the <i>PSEA</i>	17

Part 5: Processes and Outcomes	18
Overview	18
Mediation	19
Adjudication	20
Decisions issued	21
Collective Bargaining	22
Outreach activities	23
Client Consultation Committee	23
Presentations	23
Part 6: Changes and Opportunities	24
The Way Forward	24
Videoconferencing	24
Caseload	24
New composition of the Board	24
Part 7: Key Decisions	25
Summaries of key Board decisions	25
Appendix 1 – Total Caseload for the FPSLREB 2018-2019 to 2020-2021	29
Appendix 2 – Matters per Parts of the <i>Federal Public Sector Labour Relations Act</i> 2020-2021	30
Appendix 3 – Matters per Parts of the <i>Public Service Employment Act</i> 2020-2021	31
Appendix 4 – Complaints Made under the <i>Public Service Employment Act</i> by Department 2020-2021	32
Appendix 5 – Synopsis of Applications for Judicial Review of Decisions Rendered by the FPSLREB 2020-2021	33
Appendix 6 – Number of Bargaining Units and Public Service Employees by Employer and Bargaining Agent April 1, 2020 to March 31, 2021	34
Appendix 7 – Number of Bargaining Units and Public Service Employees by Bargaining Agent April 1, 2020 to March 31, 2021	37

Message from the Chairperson

This annual report is a particularly poignant one for me as it marks the end of my term as chairperson of the Federal Public Sector Labour Relations and Employment Board (“the Board”). For the past seven years, I had the pleasure of working with an incredible team of knowledgeable and dedicated professionals who helped us successfully navigate our way through several legislative changes that reshaped our mandate, as well as adapt to a changing working environment.

This past year was no exception. I am very proud of the progress and efficiency gains we achieved again this year, particularly during a time when we were called upon to navigate our way through the challenges brought on by the COVID-19 pandemic. 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 readily adapt to our new working environment and to ensure we continued to meet our mandated responsibilities.



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.

Our approach to managing our caseload — the bricks and mortar of the Board’s work — 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. As stakeholder engagement will be key to the success of this initiative, we will seek their ideas and feedback and communicate our progress throughout every phase of this initiative.

In closing, I should note that 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, commitment to excellence, and willingness to embrace change, the Board continued to function at optimal capacity during a very challenging year while maintaining its enviable and long-standing reputation as a labour relations leader.

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

Mandate of the Board

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* ("the *ACA*"), which establishes a framework for the proactive identification, removal, and prevention of barriers to accessibility for persons with disabilities.

Legislative changes impacting our mandate

On January 1, 2021, changes came into force with respect to the administration and enforcement of Part II of the *CLC*. Among those changes, Part 1 of *An Act to amend the Canada Labour Code (harassment and violence)*, the *Parliamentary Employment and Staff Relations Act* and the *Budget Implementation Act, 2017, No. 1* brings protection from workplace harassment and violence 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 public sector and parliamentary employees alleging violence or harassment in the workplace as well as in 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 Board's jurisdiction

As part of its responsibilities, the Board interprets and applies the following legislation:

- *Federal Public Sector Labour Relations Act (FPSLRA)*
 - sets out collective bargaining and grievance adjudication systems for the federal public sector, including Royal Canadian Mounted Police (RCMP) members and reservists;
- *Public Service Employment Act (PSEA)*
 - sets out a system for complaints about internal appointments, appointment revocations, and layoffs in the federal public service;
- *Canadian Human Rights Act (CHRA)*
 - The Board interprets and applies the *CHRA* with respect to grievances filed under the *FPSLRA* and complaints made under the *PSEA*;
- *Parliamentary Employment and Staff Relations Act (PESRA)*¹
 - sets out collective bargaining and grievance adjudication systems for Canadian parliamentary institutions;
- *Public Sector Equitable Compensation Act (PSECA)*
 - sets out a framework for pay-equity complaints in the federal public sector;

- *Canada Labour Code (CLC)*, Part II
 - sets out a system for workplace health-and-safety and reprisal complaints in the federal public service as well as allegations of violence or harassment in the workplace and any other matters related to the prevention of accidents, illnesses, or injuries; and
- *Accessible Canada Act (ACA)*
 - sets out a framework for the proactive identification, removal, and prevention of barriers to accessibility for persons with disabilities.

The legislative framework of the *FPSLRA* covers numerous collective agreements, bargaining agents, and employers. It applies to departments listed in Schedule I to the *Financial Administration Act (FAA)*, other portions of the core public administration listed in Schedule IV to the *FAA*, and separate agencies listed in Schedule V to the *FAA*. The *FPSLRA* covers over 285 000 federal public sector employees, including RCMP members and reservists.

The legislative framework of the *PSEA* applies to any organization for which the Public Service Commission (PSC) or its delegate has the authority to make appointments and covers approximately 217 000 employees and managers of the federal public service.²

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.

¹ A separate annual report is issued for the *PESRA*.

² See the PSC's [Reference List](#) for a list of organizations and deputy heads for which it has delegated appointment (and related authority).

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

The Board's activities are illustrated in Figure 1.

FIGURE 1 – THE BOARD'S ACTIVITIES

Collective Bargaining

Provides a comprehensive framework for the collective bargaining processes within the federal public sector, including the RCMP, and Parliament that are covered by the *FPSLRA* and the *PESRA*.

Through collective bargaining, the Board provides services that facilitate the resolution of disputes that arise in the context of collective bargaining for the purpose of establishing terms and conditions of employment. As administrator of the collective bargaining process, the Board's Mediation and Dispute Resolution Services registers the bargaining agent's dispute-resolution mechanism and records when notices to bargain are served. It also receives and processes applications and documents related to either of the formal dispute-resolution processes (i.e., arbitration and conciliation).

Adjudication

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 a court hearing but is less formal.

Through adjudication, the Board achieves the fair resolution of cases through various forms of dispute resolution, including hearings and case-management conferences, and develops a solid body of precedents that can be used to help resolve future cases.

Mediation

Help parties resolve their conflicts by reaching a mutually acceptable agreement and without resorting to a hearing. Mediation is a confidential, voluntary process led by an independent and impartial third party.

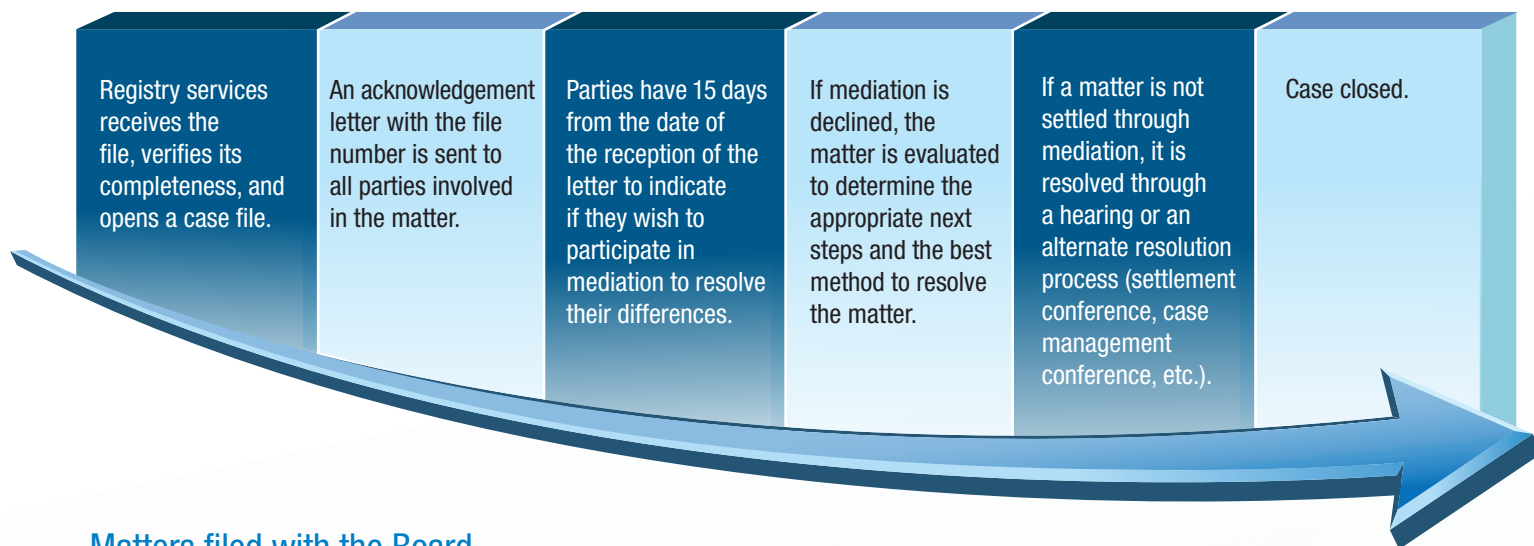
Through mediation, the Board achieves increased collaboration between labour and management, as well as greater interest and commitment in the resolution of disputes, and promotes a public service characterized by fair, transparent employment practices, respect for employees, effective dialogue, and recourse aimed at resolving appointment issues.

More information about the Board’s collective bargaining, mediation, and adjudication activities during the reporting period can be found in Part V, “Processes and Outcomes”, of this annual report. Please consult the [Board’s website](#) for more information on the Board’s overall activities.

Case management of matters before the Board

This figure illustrates the general steps that a file will go through from the moment the request is received by the Board to its closure.

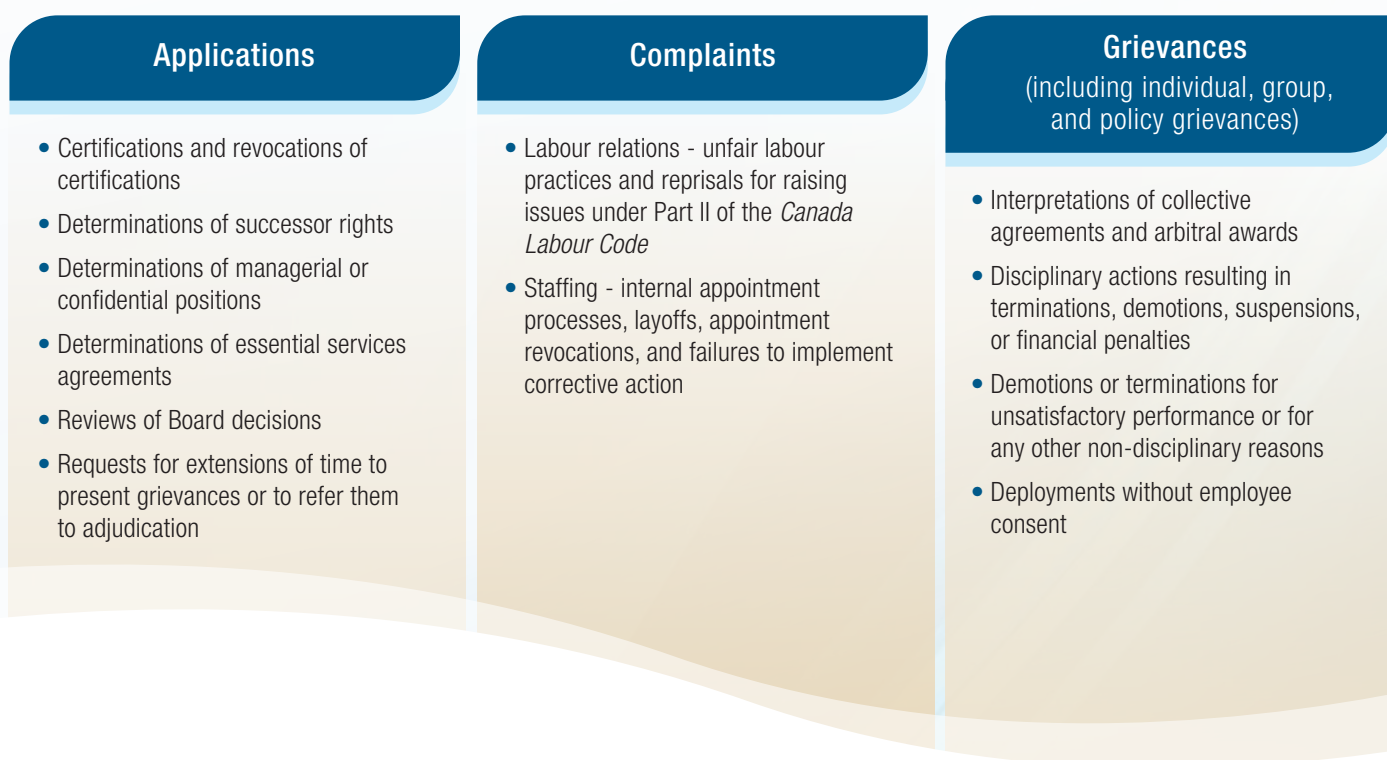
FIGURE 2 – CASEFILE PROCESSING STEPS AT A GLANCE



Matters filed with the Board

Matters filed with the Board fall into three main categories, as shown in Figure 3.

FIGURE 3 – TYPES OF MATTERS FILED WITH THE BOARD



Part 3: 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.

The Board used its website to provide regular information updates to stakeholders 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 the area of collective bargaining, the Board's Mediation and Dispute Resolution Services (MDRS) team coordinated Public Interest Commission hearings in spring 2020, which was the first significant Board process to successfully use remote technologies. Mediators of MDRS 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 during a time of great uncertainty.

In order to reduce the impact on an already substantial caseload, 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. By early fall, the Board provided parties with additional guidance on how to effectively use videoconferencing for hearings and mediations.

The Board also launched a COVID-19-tracking project to monitor its progress dealing with the postponed hearings. Each Board member was responsible for regularly reporting the status of the cases for which they were responsible. This project enabled the Board to monitor the number of cases that were fully resolved through various methods, including settlement discussions, mediation, withdrawal, or via a Board decision that normally follows a videoconference hearing.

Through that monitoring project, the parties made considerable efforts to resolve their matters directly or with the assistance of a mediator. By the end of the reporting period, approximately 40% of the postponed COVID-19 cases were fully resolved. 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.

Managing the caseload

As the Board adapted its processes and practices to respond to the pandemic, the pandemic also presented the Board with an opportunity to step back and reflect on an ongoing challenge — namely, how to effectively manage its large caseload. Over the years, many factors that were beyond the Board’s control increased both the number and the complexity of its caseload and will continue to have an impact in the years ahead.

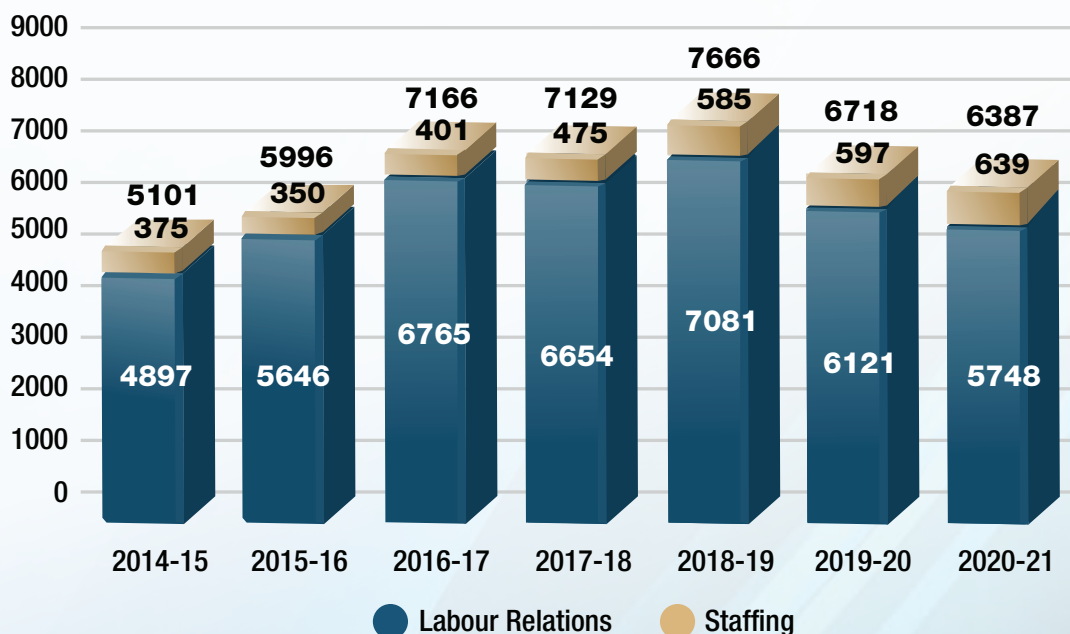
These include several legislative changes that broadened the Board’s mandate. Another factor is the 2014-2015 merger of the Public Service Staffing Tribunal and the Public Service Labour Relations Board that resulted in the creation of the actual Board, following which the Board’s caseload went from 5996 files in 2015-2016 to 7666 files in 2018-2019 — the highest number of files ever in its inventory (see Figure 4 for an overview of the Board’s active caseload from 2014-2015 to 2020-2021).

During that same period, the Board also had to deal with the fluctuation in the number of full- and part-time Board members available to hear cases, which is another factor that has consistently impacted its ability to deal with its caseload. For example, before the 2014-2015 merger of the Public

Service Staffing Tribunal and the Public Service Labour Relations Board, the combined number of part-time and full-time Board members for both legacy tribunals was 29. That number decreased to only 9 full-time members after the merger. It was only in 2019-2020 that the Board’s caseload started to decrease after additional Board members were appointed and new case-management practices were introduced, such as implementing more streamlined, responsive, and effective adjudication processes through more proactive case-management and in-depth case analysis. The impacts of the drastic reduction in the number of Board members is still being felt and is reflected in the time it takes to resolve matters before the Board.

During the 2020-2021 reporting period, it became obvious that given the inability to hold hearings for several months and without a full complement of Board members, the status quo was no longer an option. It was clear that a more strategic approach was needed to achieve better results and, more importantly, to provide timely access to justice for the parties before the Board.

FIGURE 4 – CASELOAD EVOLUTION 2014-2015 TO 2020-2021



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. This initiative will integrate new technologies to further modernize the Board's case-management capacity, as well as analyze trends and understand their impacts. 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 caseload,

registry systems, and mediation and hearing processes to create concise and measurable objectives and results tracking. 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.

Recognizing the valuable role stakeholder engagement will play in the success of this strategy, the Board plans to hold ongoing consultations with its stakeholders to share ideas and seek their feedback. It will also seek to enhance the transparency of its processes by regularly communicating key milestones, progress, updates, and measurable results to both internal and external stakeholders.

Part 4: Caseload Overview – 2020-2021

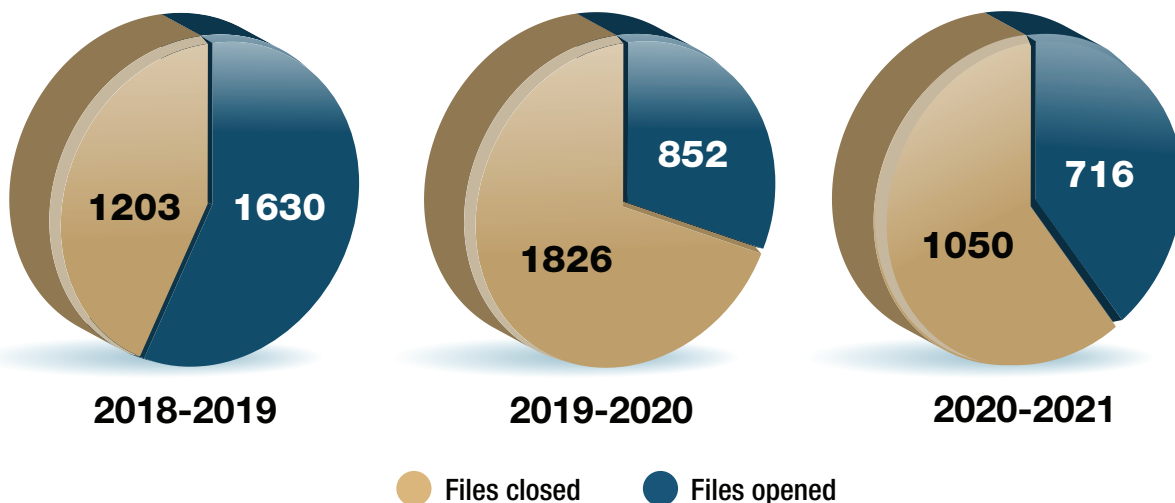
Federal Public Sector Labour Relations Act (FPSLRA)

Files opened and closed under the FPSLRA

The volume and nature of matters the Board receives and closes varies each year and can be affected by various factors, including the context of collective bargaining, legislative and other trends, and economic and environmental factors.

The number of files opened and closed in 2020-2021 was consistent with previous years. It is important to note that the substantial gap between the number of closed files in 2019-2020 and 2020-2021 stems from a case-management exercise led by the Board's chairperson in 2019-2020, which led to the administrative closure of numerous files (see Figure 5).

FIGURE 5 – FILES OPENED AND CLOSED (FPSLRA) – 2018-2019, 2019-2020, AND 2020-2021



Overview of files under the *FPSLRA*

As in previous years, the majority of files under the *FPSLRA* before the Board consisted of individual grievances (74% of files under the *FPSLRA*) mainly because this category of grievances includes multiple types (e.g., collective agreement interpretations, disciplinary actions, demotions, and deployments).

The number of files received for most of the matters covered by the *FPSLRA* was consistent with previous years, with the exception of the number of applications for managerial and confidential positions, which decreased significantly from 211 in 2019-2020 to 90 this year. Again this year, the number of individual grievances was slightly lower than what we have

seen from the 2015-2016 to the 2018-2019 reporting periods, during which we received a higher than usual number of files, mainly for pay-related grievances linked to the federal Phoenix pay system. See Figure 6 for a breakdown of types of matters that were referred to or filed with the Board in 2020-2021.

Of the 716 new files received, 145 included a discrimination allegation under the *CHRA*, the majority of which related to a disability (47%), family status (13%), race (8.1%), national or ethnic origin (8.1%), age (6.2%), and sex (5.7%). The remainder of the allegations (11.9%) related to marital status, sexual orientation, colour, religion, genetic characteristic, and conviction for an offence for which a pardon has been granted.

FIGURE 6 – LABOUR RELATIONS MATTERS FILED OR REFERRED TO THE BOARD (*FPSLRA*) – 2018-2019, 2019-2020, AND 2020-2021

	NUMBER OF FILES 2018-2019	NUMBER OF FILES 2019-2020	NUMBER OF FILES 2020-2021
GRIEVANCES			
Individual (s. 209)	1262	525	530
Policy (s. 221)	11	13	7
Group (s. 216)	7	0	7
Other – Federal Court (s. 234(1))	3	0	1
Total	1283	538	545
COMPLAINTS			
Duty to observe terms and conditions during a certification application (s. 56)	0	1	0
Duty to implement provision of collective agreement (s. 117)	5	0	0
Duty to bargain in good faith (ss. 106 and 107)	7	3	6
Duty to bargain in good faith (s. 110(3))	0	0	1
Unfair labour practices (ss. 185, 186, 188, and 189)	15	21	22
Unfair labour practices - unfair representation (s. 187)	31	22	28
Reprisal (under s. 133 of the CLC (s. 240))	24	23	5
Other	0	5	2
Total	82	75	64

APPLICATIONS			
Review of order and decision (s. 43(1))	7	10	5
Determinations of membership (s. 58)	3	2	0
Successor rights and obligations (s. 79)	0	1	0
Applications for managerial or confidential positions (s. 71)	227	211	90
Revocations of managerial or confidential positions (s. 77)	25	10	0
Revocation of certification (s. 94)	0	0	1
Extension of time (s. 61)	3	5	10
Applications – other	0	0	1
Total	265	239	107
Grand Total	1630	852	716

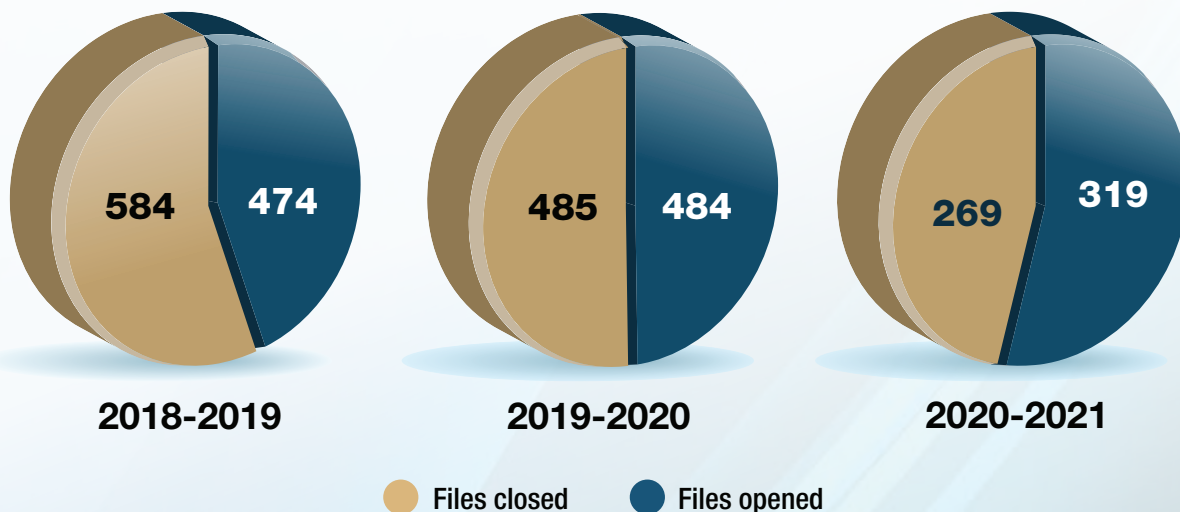
Public Service Employment Act (PSEA)

Files opened and closed under the PSEA

The number of staffing complaints opened under the PSEA was lower than the previous year (i.e., 319 compared to 484). The number of files closed also decreased (i.e., 269 compared to 485).

Of the 319 staffing complaints presented to the Board, 27 included a discrimination allegation under the CHRA. The allegations related to race (27.8%), a disability (22.2%), family status (16.7%), age (13.9%), sex (8.3%), national or ethnic origin (8.3%), and marital status (2.8%).

FIGURE 7 – FILES OPENED AND CLOSED (PSEA) – 2018-2019, 2019-2020, AND 2020-2021



Overview of cases under the PSEA

In 2020-2021, the Board received 319 staffing complaints, the majority (309) of which involved internal appointment processes. Of those files, 117 related to advertised

appointment processes, and 191 related to non-advertised appointment processes (see Figure 8). Matters filed under the PSEA represented 32% of all files received by the Board in 2020-2021.

FIGURE 8 – COMPLAINTS FILED UNDER THE PSEA BY TYPE – 2018-2019, 2019-2020, AND 2020-2021

TYPE OF STAFFING COMPLAINTS	NUMBER OF STAFFING COMPLAINTS 2018-2019	NUMBER OF STAFFING COMPLAINTS 2019-2020	NUMBER OF STAFFING COMPLAINTS 2020-2021
Layoff complaints (s. 65)	3	8	4
Appointment revocations (s. 74)	6	5	3
Internal appointments (s. 77(1))	575	463	309
Advertised	244	254	117
Non-advertised	327	205	191
Not applicable	4	4	1
Corrective measures (s. 83)	0	4	3
Lack of jurisdiction	0	4	0
Total	584	484	319

Part 5: Processes and Outcomes

Overview

As mentioned earlier in this annual report, not all Board cases proceed to a formal hearing, for the following reasons:

- an order may be issued (e.g., for applications related to managerial and confidential positions);
- a matter may be closed for administrative reasons as requested by the chairperson;
- a matter may be settled before a hearing through mediation or mediation and arbitration; and
- a party may decide to withdraw a matter before the Board.

In 2020-2021, for both the *FPSLRA* and the *PSEA* combined, 70% of the cases were settled or withdrawn before the scheduled hearings, and 11% were settled or withdrawn through mediation or mediation and arbitration.

Figure 9 shows the number and the method of files closed under the *FPSLRA* and the *PSEA* during the reporting period.

FIGURE 9 – FILES CLOSED UNDER THE *FPSLRA* AND THE *PSEA* – 2020-2021

CLOSURE METHOD	NUMBER OF FILES*
<i>FPSLRA</i>	
Decision	223
Closure for administrative reasons (requested by the Board's chairperson)	19
Order (managerial and confidential positions)	75
Settlement and withdrawal	733
Total	1050
<i>PSEA</i>	
Decision	20
Letter decision	49
Direction	4
Withdrawal	196
Total	269

*As one decision may involve many files, there can be a gap between the number of decisions issued and the number of files closed.

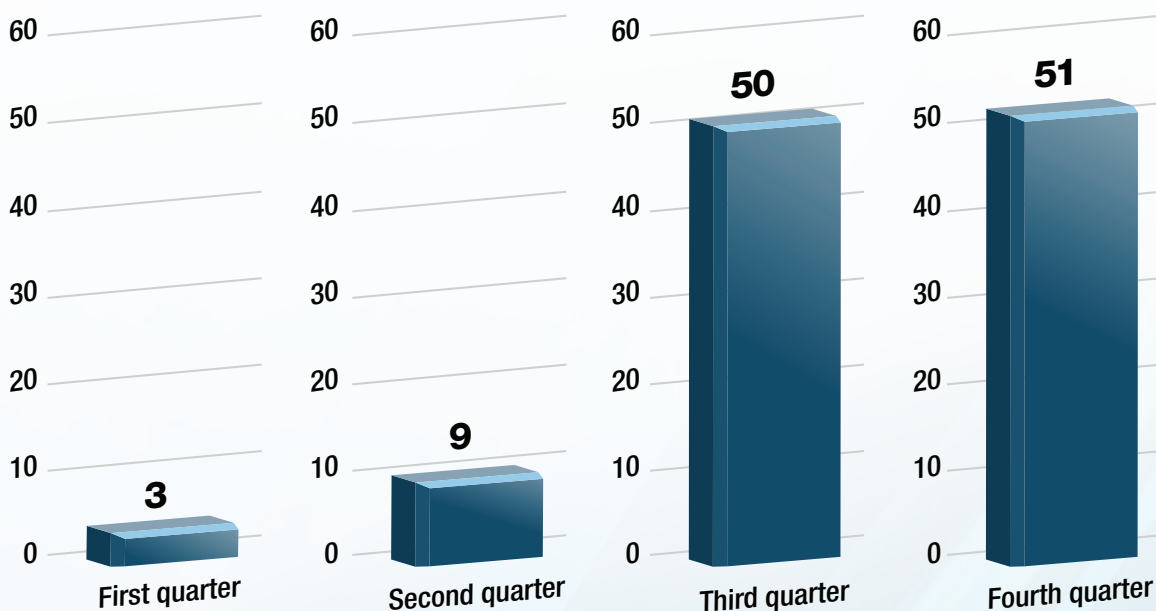
The following provides more detailed information on our processes, the types of files settled and the means by which they were settled.

Mediation

Since it was prevented from holding in-person meetings due to the COVID-19 pandemic, the MDRS team quickly explored technological options that offered an alternative method by which to conduct mediations. The unit's mediators were trained in the operation of different online videoconference platforms and developed a strong proficiency in their use. They were also able to work with clients to overcome their hesitancy to accepting the application of these alternative methods. The MDRS team's proactive embrace of this wholesale shift to an online model and its patience cultivating a comfort level among the client base allowed for the continuation of service and offered valuable assistance to the parties in resolving disputes and maintaining harmonious relationships in these difficult times.

As MDRS mediators developed their videoconference proficiency, and parties began to feel more comfortable using this technology to resolve their disputes, there was an uptake in the use of videoconferences. Consequently, 88% of all mediations were held during the second half of 2020-2021, as depicted in Figure 10. Videoconferencing was the dominant method of holding mediations; indeed, 95% of all mediations were held by videoconference. The few in-person mediations (3%) that were conducted were held in the National Capital Region during a brief period in the fall of 2020. Mediations by phone (2%) were conducted at the beginning of the pandemic but were quickly identified as an inefficient option.

FIGURE 10 – MEDIATIONS CONDUCTED QUARTERLY – APRIL 1, 2020, TO MARCH 31, 2021



Although only 12 mediations had been conducted by the end of September 2020, MDRS was successful in picking up the pace and conducted a total of 113 mediations in the year in review compared to 152 the previous year. Adapting to videoconference mediation was a challenge for everyone involved, and it is remarkable that the parties were successful in reaching a settlement in 70 cases (99 Board files), resulting in a settlement rate of 62%. Historically, settlement rates in mediation have been on average 80%.

The settlements also resulted in the closure of 16 grievances at the departmental level, 1 complaint before the Canadian Human Rights Commission, and 12 matters before other tribunals. Overall, staffing complaints accounted for 52% of all the files that were settled in 2020-2021. Figure 11 provides further details of the types of files that were heard through mediation.

Adjudication

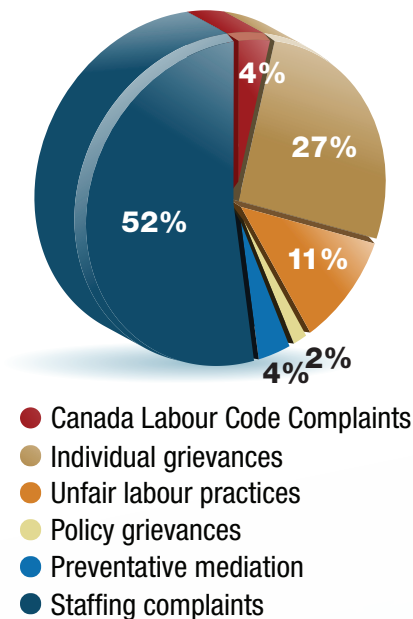
When a matter is not resolved through mediation or through a case-management process, a hearing is scheduled. Hearings provide all parties with an opportunity to submit evidence to support their positions through either written or oral submissions, as well as testimony from witnesses.

In 2020-2021, due to the restrictions imposed by the pandemic, the Board's case-management conferences and hearings were initially postponed beginning in March 2020. By July 2020, a total of 151 hearings were postponed, which represented 376 Board files.

In response, the Board launched two projects. The first was to immediately set up a working group to investigate conducting hearings by videoconference and establish [videoconferencing guidelines](#).

Secondly, the Board also launched a COVID-19 tracking project to monitor its progress dealing with the cancelled hearings. Each Board member was responsible for regularly reporting the status of the cases for which they were responsible. This project enabled the Board to monitor the number of cases that were fully resolved (i.e., either through settlement discussions, mediation, or withdrawal or via a Board decision that followed a videoconference hearing). The Board also monitored the

FIGURE 11 – TYPES OF FILES HEARD THROUGH MEDIATION



impact that case-management conferences and other case-management methods had on disposing of these matters.

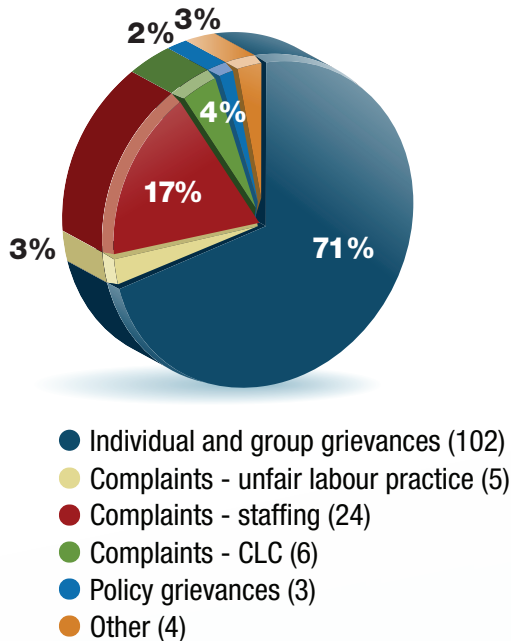
By the end of 2020-2021, approximately 40% of the postponed cases were fully resolved. Through the monitoring project, the Board noted the following:

- the parties made considerable efforts to resolve their matters directly or with the assistance of a mediator;
- the Board held case-management conferences in the majority of cases;
- prior to a hearing, almost every stages of a proceeding were done via videoconference (primarily Zoom);
- the Board worked actively with the parties appearing before it to make videoconferencing more efficient, given the challenges of the technology and the different locations and time zones where the parties might be located (e.g., using agreed statements of fact, submitting joint books of documents, and using written submissions for either all or part of the matters); and
- only a few of the 151 postponed hearings are waiting for the return to in-person hearings.

In addition to addressing the 151 cases postponed due to the pandemic, the Board resumed scheduling new matters via videoconferencing.

Figure 12 provides an overview of the types of matters that were heard by the Board in 2020-2021.

FIGURE 12 – TYPES OF MATTERS HEARD IN 2020-2021

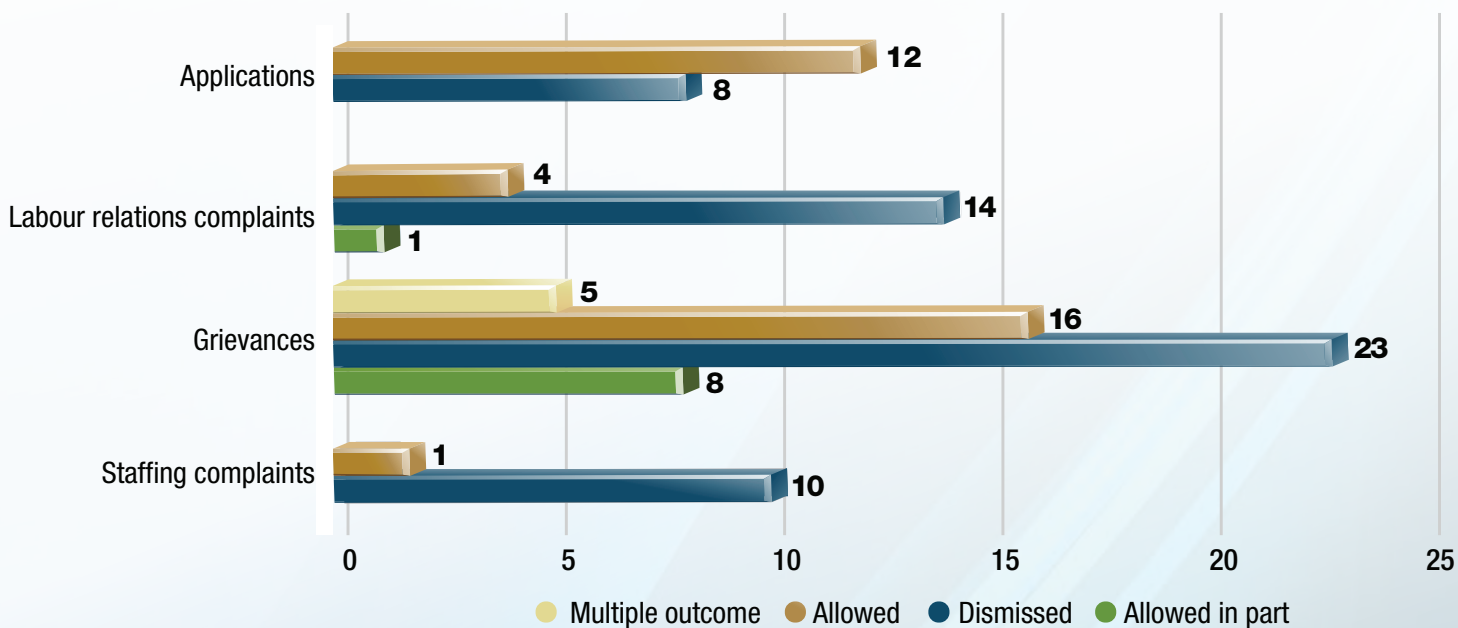


Decisions issued

In 2020-2021, 102 decisions were issued under the *FPSLR*A and the *PSEA* (does not include terms of references, interim decisions, supplementary decisions and partial decisions). Ninety-one (91) of those decisions involved labour relations matters, 11 dealt with staffing issues. Most decisions issued related to labour relations grievances (51%). Twenty percent (20%) were applications, 19% were labour relations complaints, and 10% were staffing complaints.

Figure 13 provides an overview of the outcome of the decisions issued in 2020-2021. In addition to those outcomes, 1 decision that involved an individual grievance and a complaint resulted in a dismissal; 1 involved multiple matters that were dismissed, allowed in part, and allowed, respectively; and 1 application resulted in an order.

FIGURE 13 – OUTCOMES OF DECISIONS ISSUED, BY TYPE, 2020-2021



Collective Bargaining

For Canada's federal public service, 2020-2021 marked a relatively tranquil year of collective bargaining activity, particularly compared to the previous year. As most of the bargaining units for which the Treasury Board is the employer, as well as separate employer bargaining units, concluded their negotiations for a round of collective bargaining that began in mid-2018, only a handful of units were negotiating collective agreements in 2020-2021. As a result of the diminished bargaining activity, the Board did not receive any related mediation requests; nor did it receive any requests to establish arbitration boards.

However, the Board did receive several requests that sought access to the conciliation-strike route provided for under the *FPSLRA*. A total of five (5) Public Interest Commissions (PICs) were held during the reporting period, all of which submitted their reports containing non-binding recommendations before the end of the fiscal year. Also, two (2) PIC reports were issued for hearings that were conducted in the last quarter of 2019-2020.

Two (2) other requests for conciliation were received towards the end of the reporting period and were scheduled for PIC hearings in 2021-2022.

With respect to the resolution of collective bargaining disputes, the challenges related to the pandemic were twofold. First, the Board had to determine how it would organize and conduct the requested PIC hearings, given the constraints imposed by restrictive public health measures, which necessitated the suspension of all in-person proceedings at the Board. These hearings were eventually rescheduled to later dates and held via videoconference.

The second challenge related to resolving outstanding disputes through conciliation was the context within which PICs had to be held. Specifically, how would they be able to develop recommendations to assist the parties resolve their disputes in the face of the uncertainty, economic upheaval, and rapidly mounting fiscal pressures placed on the federal government as a result of the global pandemic? It was a credit to the members of these bodies and the parties that most of the units involved were able to find common ground and resolve their disputes following the issuance of the PIC reports.

Outreach activities

Client Consultation Committee

As part of its commitment to consult stakeholders on issues pertaining to its mandate, the Board benefits from discussions with its Client Consultation Committee (CCC) to help improve its service to parties.

The CCC provides an important way for the Board to collaborate with its stakeholders. The objective of the CCC is to seek clients' views on the Board's processes, practices, policies, and rules for its adjudication and related mediation services. Ongoing stakeholder consultations help the Board develop case-management initiatives, including case groupings and other activities that are aimed at reducing its caseload.

In normal times, the Board usually holds two CCC meetings per year. This year, because of all the changes stemming from the pandemic, four CCC meetings were held between April and October. The exceptional meetings were necessary to discuss the overall use of videoconferencing, including the development of videoconferencing guidelines and the launch the eFiling functionality for individual grievances, and to discuss the resumption of timelines and hearing scheduling following the Chairperson's order to postpone all hearings and suspend all regulatory timelines.

Presentations

The MDRS team conducted different outreach activities over the 2020-2021 period to university groups and clients of the Board. The goal of those presentations was to educate participants on how to foster harmonious labour relations and on the mediation process. Specifically, three information sessions were delivered to different universities while a presentation of the FPSLRB and mediation services was given to an employer group in January 2021.

In March of 2021, MDRS also organized a webinar entitled, "Mediation by Videoconference: Reflecting on the FPSLRB Experience" with the goal of sharing with client groups information to help them participate effectively in mediations conducted using videoconference platforms. The webinar format featured a moderated discussion on the experience of videoconference mediation among seasoned representatives of the different perspectives involved in mediation: mediator, bargaining agent, and employer. The panel members discussed their hands-on experience participating in videoconference mediations and responded to questions within specific topic areas such as the challenges faced, the advantages and disadvantages of videoconferencing, logistics and technology, how to make the process work, and the future of videoconference mediations in the post-pandemic environment. The session was well attended, with 265 participants, and received positive feedback from across the various client groups.

Part 6: 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

The changes that the Board implemented during the year to better address its caseload will continue into the next fiscal year. 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 reducing unnecessary delays and resolving disputes as quickly and as efficiently as possible.

Recognizing the valuable role that stakeholder engagement will play in the success of its Case Flow Initiative, in 2021-2022, the Board will hold stakeholder consultations to share ideas and seek their feedback. It is also looking forward to ensuring that the initiative's progress, key milestones, and concrete results will be communicated to stakeholders throughout each phase of the project. Working with stakeholders will ensure the fair, credible, and efficient resolution of labour relations matters in the federal public sector.

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 also. As well, the terms of several full- and part-time Board members will expire in 2021. 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.

Part 7: Key Decisions

Summaries of key Board decisions

National Police Federation v. Treasury Board, 2020 FPSLRB 44
- Unfair labour practice

The National Police Federation (“the Federation”) made a complaint against the employer under s. 190(1)(a) of the *Federal Public Sector Labour Relations Act* (“the *Act*”) on the grounds that the employer allegedly violated s. 56, which provides for a freeze on terms and conditions of employment while a union’s application for certification as a bargaining agent is being processed. The Federation challenged changes to the promotions policy for the Royal Canadian Mounted Police (RCMP), which were implemented on November 20, 2017. The Federation argued that the changes were not business as usual or within the employees’ reasonable expectations and that they violated the statutory prohibition against altering the terms and conditions of employment during a freeze period.

On April 18, 2017, the Federation had applied for certification as the bargaining agent for a bargaining unit composed of all RCMP regular members and reservists. At that time, s. 56 provided as follows:

56 *After being notified of an application for certification made in accordance with this Part, the employer may not, except under a collective agreement or with the consent of the Board, alter the terms and conditions of employment that are applicable to the employees in the proposed bargaining unit and that may be included in a collective agreement until*

(a) *the application has been withdrawn by the employee organization or dismissed by the Board; or*

(b) *30 days have elapsed after the day on which the Board certifies the employee organization as the bargaining agent for the unit.*

The Board found that the main issue was to determine whether the unilateral changes to the RCMP’s promotions policy during the freeze period that arose from the certification application were business as usual, having only been the subject of internal management discussions, with no notice to the employees.

The Board reiterated that an employee organization that alleges a violation of s. 56 of the *Act* must demonstrate that a condition of employment existed on the day on which the certification application was filed, that the term or condition of employment was changed during the statutory freeze period without the Board’s consent, and that the term or condition of employment could be included in a collective agreement.

The Board emphasized that even if all the required factors in s. 56 of the *Act* are proved, the statutory freeze does not oblige the employer to maintain a completely static work environment. The Board specified that some changes may be made to the term or condition of employment at issue without violating the statutory freeze if they are part of business as usual or if they meet employees’ reasonable expectations.

In this case, the Board found that the promotions policy included terms and conditions of employment that existed on the day on which the certification application was filed, that the terms and conditions of employment were changed during the freeze period without the Board’s consent, and that the changes at issue could have been included in a collective agreement.

The Board also found that by proceeding that way, the employer did not manage its business as usual. The changes were inconsistent with past management practices, with what a reasonable employer would have done in the same situation, and with employees’ reasonable expectations.

The Board also found that the employer could have asked for its consent to change the terms and conditions of employment protected by the freeze or simply waited until they could be negotiated at the bargaining table after the Federation's certification as the bargaining agent for the affected employees.

Therefore, the Board determined that the employer violated the freeze provision set out in s. 56.

Grievance allowed.

At the end of the fiscal year, a judicial review application with respect to this decision was pending before the Federal Court of Appeal (Federal Court of Appeal file no. A-123-20).

Gagné v. Deputy Head (Correctional Service of Canada), 2020 FPSLRB 114 - Termination (disciplinary)

The grievor, a correctional manager, grieved that the termination of his employment was without cause. Following a workplace assessment and a disciplinary investigation, the respondent alleged that the grievor assaulted an inmate, transported an inmate without a camera, and yelled at the inmate.

The Board found that the termination of the grievor's employment could not be upheld because the employer failed to establish the allegations of assault and transport without a camera. In the Board's view, the disciplinary hearing was only *pro forma*, and the employer acted in bad faith by relying on a tainted investigation process and a tainted investigation report. The testimony of the respondent's witnesses was not credible or compelling. The Board also drew a negative inference from the respondent's failure to disclose certain documents and video recordings.

The grievor admitted to the verbal altercation with the inmate, and it was the only established cause for discipline. Given the grievor's forthrightness in admitting to this behaviour, his years of service, and his disciplinary and performance history, the Board found that an oral reprimand would have sufficed and that no further action would have been necessary.

The Board also found that when the employer made its disciplinary decision, it did not consider any mitigating circumstances, including the fact that as of the disciplinary hearing, the grievor was undergoing treatment for post-

traumatic stress disorder. Accordingly, the Board found that the termination was excessive and unjustified and that it should be overturned.

Grievance allowed. The Board ordered that the grievor be reinstated with retroactive salary and benefits.

An application for judicial review of this decision was discontinued.

Union of Canadian Correctional Officers - Syndicat des agents correctionnels du Canada - CSN (UCCO-SACC-CSN) v. Treasury Board (Correctional Service of Canada), 2021 FPSLRB 22 - Interpretation of a provision of a collective agreement

The Union of Canadian Correctional Officers ("the union") filed a policy grievance on behalf of the correctional officers who work at Kent Institution, which is a maximum-security institution in British Columbia. It operates at the minimum required staffing levels, 24 hours per day, 365 days per year. The correctional officers work a rotational shift schedule. Shifts are between 8 and 16 hours. The employer notified the local union president that a new approach would be implemented to order overtime worked. Based on certain conditions, correctional managers could order a correctional officer to work an overtime shift involuntarily if no volunteer could be found to work a vacant shift. The union filed a policy grievance in which it alleged that ordering involuntary overtime in the absence of operational requirements violated the collective agreement.

The Board confirmed that it was a policy grievance within the meaning of s. 220 of the *Act*. It found that a bargaining agent may file a policy grievance even if the actions at issue are restricted to a single institution or a single workplace.

The Board found that even though the employer could order involuntary overtime in emergency situations or to meet security requirements, the sustained and chronic use of involuntary overtime to address staff shortages violates the collective agreement and is an unreasonable exercise of management rights. The Board also pointed out that it could not order the employer to resume using operational adjustments more actively at its institution to address staff shortages because the collective agreement contained no wording on using operational adjustments. The Board also declared that s. 229 of the *Act* prevented it from making an

order that would require amending the collective agreement and from ordering the institution to hire more staff.

The Board recommended to the parties that they use the labour-management consultation process or preventive mediation services and that they improve the reporting systems to track involuntary overtime.

Grievance allowed in part.

Rizqy v. Deputy Minister of Employment and Social Development, 2021 FPSLRB 12 - Abuse of authority (staffing)

The complainant made a complaint under s. 77 of the *Public Service Employment Act* ("the *PSEA*") because, according to her, her candidacy was assessed with bias in both an interview and reference checks.

The complainant passed the interview stage and was screened out at the references stage. Her choice of references was problematic because both of her supervisors were also candidates in the same recruitment process. Thus, from the list of references she provided, the committee responsible for checking them contacted two who did not participate in the appointment process. A negative picture of the complainant emerged from those communications, which was inconsistent with her performance evaluations from the two years before the appointment process. In fact, her evaluations for the two years were very good. When she was informed that she had failed in the process, she emailed the selection committee after the informal interview. She proposed alternate names as references and outlined her achievements and successes, which were significantly at odds with the referees' statements. However, the employer did not take it into account. Thus, she was screened out of the appointment process.

The Board found that by not correcting a process that appeared highly prejudicial to the complainant, the respondent abused its authority when it assessed her candidacy, on one hand because of the selection committee's bias, and on the other hand because of the failure to correct the references issue.

The Board recommended that references be used for final selection purposes, once a candidate is otherwise qualified, and not as a tool to assess whether the candidate has the essential qualifications. To avoid pointless procedures, the Board also recommended that a candidate's challenge of the

process be considered when the candidate presents evidence that contradicts the selection committee's decision.

Grievance allowed.

Kashala Tshishimbi v. Social Sciences and Humanities Research Council, 2020 FPSLRB 83 - Demotion

This decision concerns an employer that is a separate agency listed in Schedule V to the *Financial Administration Act* ("the *FAA*") and the grievor's demotion, which was effected under s. 12(2)(d) of the *FAA*.

The grievor was demoted two levels from his senior program evaluation officer position to a program officer position. He claimed that his demotion was a disguised disciplinary action. The employer argued that the demotion was administrative, and as a result, the Board did not have jurisdiction to hear the grievance.

The Board found that although the employer had a legitimate operational interest to ensure that the grievor's performance was adequate, the demotion that it imposed was not a reasonable response to honestly held operational considerations. The Board found that after the 2012-2013 restructuring, the grievor and his new manager disagreed on project objectives, how to present projects, and important substantive issues. This led the grievor's new manager to qualify as incompetence what had initially been an attitude and behaviour that she felt was unjustified. As a result, a performance improvement plan was implemented to help the grievor achieve the objectives that she set.

However, the Board found irregularities in the documentation and testimonies that the employer adduced, including

- (1) gaps in the set timelines for meeting the expectations;
- (2) inconsistencies in the midterm assessments and the annual review, and the failure to recognize the progress observed in the grievor;
- (3) gaps in the levels of training offered, delays applying the concepts received in the offered training, and insufficient training in the area of supervision;
- (4) arbitrary and therefore unreasonable performance standards; and

(5) significant changes to the level of work that the grievor had to complete.

The Board determined that the employer did not act forthrightly and in good faith with respect to the grievor's performance. The Board found that although the employer kept the grievor partly informed of the expectations of him and of the consequences of not meeting them, it was not completely transparent and fair with him when it imposed the high standards on him that were, in part, arbitrary. The Board found that the employer did not give the grievor enough of an opportunity to adapt and meet the expectations and that it did not provide him with enough assistance.

Finally, although the employer considered alternate solutions before demoting the grievor two levels, the Board found that the employer did not examine the possibility of offering the grievor more in-depth and extensive support. The evidence showed a significant lack of openness from the manager toward the grievor.

Therefore, the evidence led the Board to believe that the decisions to implement the performance improvement plan and later to demote the grievor on performance grounds concealed disciplinary intentions. The employer used indirect means by way of the performance improvement plan and the performance evaluations to qualify as incompetence the difficulties encountered with respect to the grievor's attitude and behaviour. The Board found that the demotion was disguised discipline that resulted from bad faith that hindered procedural fairness. As a result, under s. 209(1)(b) of the *Federal Public Sector Labour Relations Act*, the Board had jurisdiction to hear the grievance.

Grievance allowed.

Michel v. Deputy Head (Correctional Service of Canada), 2020 FPSLRB 115 - Termination

The grievor was terminated from her employment as a correctional manager. The employer alleged that she failed to intervene in and did not report an incident in which two male correctional officers handcuffed a female officer to a chair and then proceeded to draw on her with a permanent marker.

The grievor acknowledged the misconduct and that some degree of discipline was required but stated that termination was excessive. She argued that with mentoring and training, she could learn the skills necessary to deal with these circumstances and that she could be returned to the workplace with a minor amount of discipline, such as a written reprimand.

The Board determined that the termination was not excessive. The grievor's failure to report the unacceptable behaviour and activities allowed them to continue for two years, perpetuated a poisoned work environment, and exacerbated her failure.

Horseplay is not an acceptable workplace activity. It poses not only a workplace safety issue but also, depending on the circumstances, may lead to assault and harassment. The grievor was obligated to end it when she encountered it. She did not give a direct order to release the female officer that one would have expected her to, which she should have done. As a result, she failed to properly discharge her duties. The fact that she found herself wondering about the absurdity of what she had seen should have triggered in her the need to report it.

During the hearing, the grievor testified that since the female officer had been released to go to the washroom, the matter was over. She also testified that since the female officer was laughing during the event, there was no harm. In the Board's view, the grievor's testimony indicated that she failed to understand the threat that this type of behaviour posed to safety, morale, and employees. She failed to address it immediately and failed to address it later by not reporting it, which would have ensured that it did not happen again.

In the Board's view, no amount of mentoring or training could ever create in the grievor the type of integrity and judgment required of an officer who does the right thing when confronted with unsafe activity at the first possible opportunity or can ever re-establish the bond of trust necessary to continue the employment relationship. The fact that even at the hearing, the grievor continued to downplay the seriousness of the events of that day, even stating that the incident was minor and deserving of only a written reprimand, confirmed to the Board that she lacked true insight into the damage that her actions caused to the bond-of-trust relationship between her and her employer.

Grievance denied.

Appendix 1 – Total Caseload for the FPSLREB 2018-2019 to 2020-2021

Federal Public Sector Labour Relations Act

FISCAL YEAR	CARRIED FORWARD FROM PREVIOUS YEARS	NEW			TOTAL NEW	CLOSED	CARRIED FORWARD TO NEXT YEAR
		GRIEVANCES	COMPLAINTS	APPLICATIONS			
2018-2019	6654	1283	82	265	1630	1203	7081
2019-2020	7081	538	75	239	852	1826	6107
2020-2021	6107	545	64	107	716	1050	5773

Public Service Employment Act

FISCAL YEAR	CARRIED FORWARD FROM PREVIOUS YEARS	NEW COMPLAINTS	COMPLAINTS CLOSED	CARRIED FORWARD TO NEXT YEAR
2018-2019	475	584	474	585
2019-2020	585	484	485	584
2020-2021	584	319	269	634

Appendix 2 – Matters per Parts of the *Federal Public Sector Labour Relations Act* 2020-2021

FEDERAL PUBLIC SECTOR LABOUR RELATIONS ACT	NUMBER OF MATTERS
PART I – LABOUR RELATIONS	
Review of orders and decisions (s. 43(1))	5
Determination of membership (s. 58)	0
Successor rights and obligations	0
Revocation of certification (s. 94)	1
Applications – other	1
Complaints	59
Complaints (ss. 106 and 107)	7
Unfair labour practices (ss. 185, 186, 188, and 189)	22
Unfair labour practices – unfair representation (s. 187)	28
Other	2
Managerial or confidential positions	90
Application for managerial or confidential positions (s. 71)	90
Application for revocation of order (s. 77)	0
PART II – GRIEVANCES	
Individual grievances (s. 209)	530
Policy grievances (s. 221)	7
Group grievances (s. 216)	7
Other – Federal Court (s. 234(1))	1
PART III – OCCUPATIONAL HEALTH AND SAFETY	
Reprisals under s. 133 of the <i>Canada Labour Code</i> (s. 240)	5
FEDERAL PUBLIC SECTOR LABOUR RELATIONS REGULATIONS	
PART II – GRIEVANCES	
Extension of time (s. 61)	10
Total	716

Appendix 3 – Matters per Parts of the *Public Service Employment Act 2020-2021*

<i>PUBLIC SERVICE EMPLOYMENT ACT</i>	NUMBER OF MATTERS
PART 4 – EMPLOYMENT	
Complaint to Board re layoff (s. 65(1))	4
PART 5 – INVESTIGATIONS AND COMPLAINTS RELATED TO APPOINTMENTS	
Revocation of appointment (s. 74)	3
Internal appointments grounds of complaint (s. 77(1))	309
Failure of corrective action (s. 83)	3
Total	319

Appendix 4 – Complaints Made under the *Public Service Employment Act* by Department 2020-2021

DEPARTMENT	NUMBER OF COMPLAINTS	PERCENTAGE
Canada Border Services Agency	21	7%
Canada School of Public Service	2	1%
Canadian Radio-television and Telecommunications Commission	2	1%
Correctional Service of Canada	55	17%
Department of Agriculture and Agri-Food	2	1%
Department of Canadian Heritage	7	2%
Department of Citizenship and Immigration	12	4%
Department of Employment and Social Development	36	11%
Department of Fisheries and Oceans	15	5%
Department of Foreign Affairs, Trade and Development	14	4%
Department of Health	17	5%
Department of Indigenous Services	20	6%
Department of Justice	2	1%
Department of National Defence	41	13%
Department of Public Safety and Emergency Preparedness	2	1%
Department of Public Works and Government Services	24	8%
Department of the Environment	2	1%
Department of Transport	1	0%
Department of Veterans Affairs	1	0%
Immigration and Refugee Board	11	3%
National Energy Board	1	0%
Office of the Director of Public Prosecutions	1	0%
Privy Council Office	1	0%
Public Service Commission	1	0%
Royal Canadian Mounted Police	19	6%
Royal Canadian Mounted Police External Review Committee	6	2%
Shared Services Canada	3	1%
Total	319	100%

Appendix 5 – Synopsis of Applications for Judicial Review of Decisions Rendered by the FPSLREB 2020-2021

FISCAL YEAR	DECISIONS RENDERED (FPSLRA, PSEA AND PESRA) ³	NUMBER OF APPLICATIONS	APPLICATIONS DISCONTINUED	APPLICATIONS DISMISSED	APPLICATIONS ALLOWED	APPLICATIONS PENDING ⁴
2018-2019	95	21	4	0	0	17
2019-2020	103	13	0	0	0	13
2020-2021	122	20	1 ⁵	0	0	19

³ Decisions rendered do not include terms of references or cases dealt with under the expedited adjudication process and managerial exclusion orders issued by the FPSLREB.

⁴ Applications that have yet to be dealt with by the Federal Court and the Federal Court of Appeal; does not include appeals of applications pending before the Federal Court of Appeal or the Supreme Court of Canada.

⁵ Three (3) of the applications (and the one that was discontinued) relate to interim decisions that are not included in the 128 published decisions (Charpentier, A-151-20; Herbert, A-3-21; and Klos, A-160-20).

Appendix 6 – Number of Bargaining Units and Public Service Employees by Employer and Bargaining Agent April 1, 2020 to March 31, 2021

Where the Treasury Board of Canada is the Employer

BARGAINING AGENT	NUMBER OF BARGAINING UNITS	NUMBER OF PUBLIC SERVICE EMPLOYEES
Association of Canadian Financial Officers	1	4980
Association of Justice Counsel	1	2888
Canadian Association of Professional Employees	2	17 298
Canadian Federal Pilots Association	1	389
Canadian Merchant Service Guild	1	1214
Canadian Military Colleges Faculty Association	1	188
Canadian Union of Public Employees	1	1069
Federal Government Dockyard Chargehands Association	1	53
Federal Government Dockyard Trades and Labour Council (East)	1	608
Federal Government Dockyard Trades and Labour Council (West)	1	650
International Brotherhood of Electrical Workers, Local 2228	1	1119
National Police Federation	1	18 912
Professional Association of Foreign Service Officers	1	1790
Professional Institute of the Public Service of Canada	6	45 011
Public Service Alliance of Canada	5	*115 188
Union of Canadian Correctional Officers - Syndicat des agents correctionnels du Canada - CSN	1	7253
UNIFOR	3	276
Total for the Treasury Board	29	218 886

*As of March 31, 2020.

Other Employers

SEPARATE EMPLOYERS	NUMBER OF BARGAINING UNITS	NUMBER OF PUBLIC SERVICE EMPLOYEES
Canada Energy Regulator (CER)		
Professional Institute of the Public Service of Canada	1	424
Total	1	424
Canada Revenue Agency (CRA)		
Professional Institute of the Public Service of Canada	1	12 482
Public Service Alliance of Canada	1	31 065
Total	2	43 547
Canadian Food Inspection Agency (CFIA)		
Professional Institute of the Public Service of Canada	3	2056
Public Service Alliance of Canada	1	4060
Total	4	6116
Canadian Nuclear Safety Commission (CNSC)		
Professional Institute of the Public Service of Canada	1	715
Total	1	715
Canadian Security Intelligence Service (CSIS)		
Public Service Alliance of Canada	1	97
Total	1	97
Communications Security Establishment (CSE)		
Public Service Alliance of Canada	1	2639
Total	1	2639
National Capital Commission (NCC)		
Public Service Alliance of Canada	1	391
Total	1	391
National Film Board (NFB)		
Canadian Union of Public Employees, Local 2656	2	88
Canadian Union of Public Employees, Local 4835	1	95
Professional Institute of the Public Service of Canada	2	164
Total	5	347

SEPARATE EMPLOYERS	NUMBER OF BARGAINING UNITS	NUMBER OF PUBLIC SERVICE EMPLOYEES
National Research Council of Canada (NRCC)		
Professional Institute of the Public Service of Canada	4	1895
Research Council Employees' Association (RCEA)	6	1936
Total	10	3831
Office of the Auditor General of Canada (OAG)		
Public Service Alliance of Canada	1	181
Total	1	181
Office of the Superintendent of Financial Institutions (OSFI)		
Professional Institute of the Public Service of Canada	1	643
Public Service Alliance of Canada	1	19
Total	2	662
Parks Canada Agency (PCA)		
Public Service Alliance of Canada	1	5917
Total	1	5917
Social Sciences and Humanities Research Council of Canada (SSHRC)		
Public Service Alliance of Canada	2	274
Total	2	274
Staff of the Non-Public Funds, Canadian Forces (SNPF-CF)		
Public Service Alliance of Canada	10	670
United Food and Commercial Workers Union	12	602
Total	22	1272
Statistical Survey Operations (SSO)		
Public Service Alliance of Canada	2	1733
Total	2	1733
Total for separate employers	56	68 146
Total for the Treasury Board	29	218 886
Total for all employers	85	287 032

Appendix 7 – Number of Bargaining Units and Public Service Employees by Bargaining Agent April 1, 2020 to March 31, 2021⁶

CERTIFIED BARGAINING AGENT	NUMBER OF BARGAINING UNITS	NUMBER OF PUBLIC SERVICE EMPLOYEES IN NON-EXCLUDED POSITIONS
Association of Canadian Financial Officers (ACFO)	1	5300
Association of Justice Counsel (AJC)	1	2785
Canadian Association of Professional Employees (CAPE)	2	18 175
Canadian Federal Pilots Association (CFPA)	1	358
Canadian Merchant Service Guild (CMSG)	1	1100
Canadian Military Colleges Faculty Association (CMCFA)	1	*181
Canadian Union of Public Employees (CUPE)	1	1050
Canadian Union of Public Employees, Local 2656 (CUPE)	2	*80
Canadian Union of Public Employees, Local 4835 (CUPE)	1	*100
Federal Government Dockyard Chargehands Association (FGDCA)	1	**50
Federal Government Dockyard Trades and Labour Council (East) (FGDTLC-E)	1	650
Federal Government Dockyard Trades and Labour Council (West) (FGDTLC-W)	1	800
International Brotherhood of Electrical Workers, Local 2228 (IBEW)	1	1050
National Police Federation (NPF)	1	N/A
Professional Association of Foreign Service Officers (PAFSO)	1	2000
Professional Institute of the Public Service of Canada (PIPSC)	19	59 152
Public Service Alliance of Canada (PSAC)	27	152 151
Research Council Employees' Association (RCEA)	6	1918

⁶ The figures were provided by the bargaining agents.

CERTIFIED BARGAINING AGENT	NUMBER OF BARGAINING UNITS	NUMBER OF PUBLIC SERVICE EMPLOYEES IN NON-EXCLUDED POSITIONS
Unifor, Local 87-M	1	3
Unifor, Local 2182	1	**300
Unifor, Local 5454 (Canadian Air Traffic Control Association (CATCA))	1	9
Union of Canadian Correctional Officers - Syndicat des agents correctionnels du Canada - CSN (UCCO-SACC-CSN)	1	7023
United Food and Commercial Workers Union, Local No. 175 (UFCWU-175)	4	233
United Food and Commercial Workers, Local 401 (UFCW-401)	1	125
United Food and Commercial Workers Union, Local No. 832 (UFCWU-832)	1	62
United Food and Commercial Workers Union, Local No. 864 (UFCWU-864)	3	169
United Food and Commercial Workers, Local 1400 (UFCW-1400)	1	400
United Food and Commercial Workers Union, Local 1518 (UFCWU-1518)	2	71
Total	85	255 295

* As of March 31, 2019.

** As of March 31, 2019.