



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 ANNUAL REPORT

APRIL 1, 2021, TO MARCH 31, 2022



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

Dear Minister,

As the 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 the *Parliamentary Employment and Staff Relations Act*, this Annual Report of the *Parliamentary Employment and Staff Relations Act*, covering the period from April 1, 2021, to March 31, 2022, for submission to Parliament.

Yours sincerely,

Edith Bramwell
Chairperson
Federal Public Sector Labour Relations and Employment Board

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Land acknowledgment

The FPSLREB's offices are located on the traditional unceded, unsundered territory of the Anishinaabe Algonquin Nation. The Algonquins have inhabited and cared for these lands from time immemorial. We take this time to show our gratitude and respect to them and to the land for all that it provides us.

We recognize that acknowledging territory is only a small step along the path of reconciliation and rights relations. The Board is committed to broader discussions and increased education about the resilience, courage, and achievements of indigenous peoples, as well as about the injustices of the past and the way in which those injustices are still reflected in our society today.

The FPSLREB recognizes that we all have a role to play in reconciliation.



Message from the Chairperson

I am pleased to present the 2021-2022 *Parliamentary Employment and Staff Relations Act* Annual Report.

The mandate of the Federal Public Sector Labour Relations and Employment Board (“the Board”) is to support harmonious labour relations and employment relations in the federal public sector and in Parliament. This mandate encompasses matters related to collective bargaining and labour relations, staffing complaints, health and safety reprisal complaints, and human rights allegations, among a host of other areas of expertise.

The Board doesn’t just deal with cases — it deals with people. As such, it is imperative that its services are offered in an accessible, inclusive, timely, and transparent manner. In the past year, the Board initiated a comprehensive review of its processes. This review includes ongoing consultations with stakeholders, with a focus on innovative and effective ways to address the parties’ needs and enhance access to justice. The Board’s approach to dispute resolution now includes many methods in addition to the traditional hearing room setting, such as increased use of written submissions, early resolution strategies, evaluative settlement conferences, and remote hearing technologies.

I am profoundly impressed by the dedication and talent of our Board members and the Board Secretariat team in piloting strategies to attain our objectives. The federal public service serves all Canadians; it needs and deserves a labour and employment board with standards of excellence. Every day, I see those standards of excellence reflected in the work of the Board. I wish to sincerely thank our vice-chairpersons, Board members, executive director, and the entire Secretariat team for their support, expertise, and commitment.

Together, we are building a better Board.

Edith Bramwell
Chairperson
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 composition of the Federal Public Sector Labour Relations and Employment Board (“the Board”) 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:

| Edith Bramwell, Chairperson Marie-Claire Perrault, Vice-chairperson (since April 30, 2021) Amélie Lavictoire, Vice-chairperson (since July 5, 2021) David P. Olsen, Vice-chairperson (until April 29, 2021) Margaret T.A. Shannon, Vice-chairperson (until April 29, 2021) | |
|---|---|
| Full-time Board members | Part-time Board members |
| Nathalie Daigle | Joanne Archibald |
| Caroline Engmann (since September 13, 2021) | Dan Butler (until September 27, 2021) |
| Bryan R. Gray | Paul Fauteux (until September 27, 2021) |
| Chantal Homier-Nehmé | Guy Giguère (since March 4, 2022) |
| John G. Jaworski | Linda Gobeil (until September 27, 2021) |
| Steven B. Katkin (until April 30, 2021) | Guy Grégoire (since August 4, 2021) |
| James Knopp | Steven B. Katkin (since March 4, 2022) |
| Ian R. Mackenzie (since September 28, 2021) | Ian R. Mackenzie (until September 27, 2021) |
| David Orfald | David P. Olsen (since August 4, 2021) |
| Nancy Rosenberg | Renaud Paquet |
| | Leslie Anne Reaume (since August 4, 2021) |
| | Augustus Richardson |

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 Services, 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, the demotion of an employee, the denial of an appointment, the classification of an employee, and all forms of termination of employment except rejections on probation during initial appointments.

The *PESRA* also gives the Board the 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.

Our commitment

- Support a fair staffing environment and harmonious labour relations between parliamentary employees and their employers.
- 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.

Legislative changes impacting our mandate

The *Pay Equity Act* and Part II.1 of the *Parliamentary Employment and Staff Relations Act*

As of August 31, 2021, the *Pay Equity Act (PEA)* came into force. It requires federal public- and private-sector employers that have 10 or more employees to establish and maintain a pay equity plan within set time frames so as to identify and correct differences in compensation between predominantly female and predominantly male job classes for which the work performed is of equal value. The *PEA* also provides for the powers, duties, and functions of a Pay Equity Commissioner, which include facilitating the resolution of disputes, conducting compliance audits, and investigating disputes, objections, and complaints, as well as making orders and imposing administrative monetary penalties for violations of the *PEA*.

To implement the *PEA*, in 2018, Part II.1 of the *PESRA* was created to extend proactive pay equity requirements to parliamentary workplaces in a manner that respects parliamentary privilege. As a result, Part II.1 provides for the application of the *PEA* to parliamentary employers, with certain adaptations.

Under the *PEA*, the Pay Equity Commissioner may refer to the Canadian Human Rights Tribunal (CHRT) important questions of law and of jurisdiction, which in the Pay Equity Commissioner's opinion would be more appropriate for the CHRT to determine. Given the Board's expertise in the application of parliamentary privilege, and to ensure that matters considered under different parts of *PESRA* are heard by the same adjudicative body, Parliament has granted the jurisdiction for appeals and referrals concerning parliamentary workplaces to the Board.

Under Part II.1 of the *PESRA*, the Pay Equity Commissioner may refer a question of law or of jurisdiction to the Board (see s. 162 of the *PEA* and s. 86.6(2)(d) of the *PESRA*). Also, an employer, bargaining agent, or other person may appeal to the Board certain decisions or orders made by the Pay Equity Commissioner (see s. 168 of the *PEA* and s. 86.7 of the *PESRA*).

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.





What we do

Collective Bargaining

- The *PESRA* provides for only one means of resolving disputes if collective 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 services

- Through its Mediation and Dispute Resolution Services (MDRS), the Board provides several 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 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. When a matter is not resolved through the case-management process or mediation, it proceeds to an adjudication hearing, which is a fair and full process that is similar to a court hearing but less formal.
- At an adjudication 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.
- After the hearing, a well-reasoned decision is issued. All decisions are posted on the Board's website once they are available in both official languages.

Types of matters heard under the *PESRA*

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

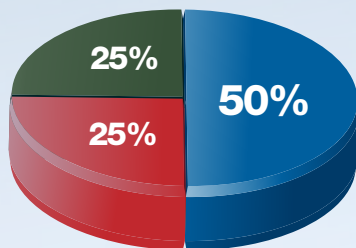
- applications for certification or the revocation of certification, or applications for the designation of a person employed in a managerial or confidential position;
- unfair-labour-practice complaints;
- grievances related to the interpretation or application in respect of the employee of a collective agreement provision or an arbitral award;
- grievances 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;
- grievances 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);
- grievances about a contravention of the regulations under the *Accessible Canada Act* if the employee has been adversely affected as a result of the contravention; and
- references under s. 70 of the *PESRA*, seeking the enforcement of an obligation under the collective agreement or an arbitral award that cannot be the subject of a grievance filed by an individual employee. The reference can be made by an employer or a bargaining agent.



2021-2022 in numbers

Files opened

Files opened - PESRA

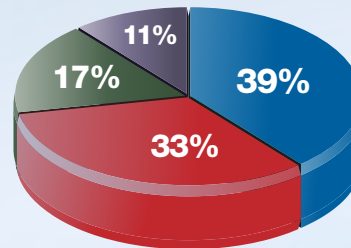


- Individual grievance (termination) 50%
- Individual grievance (disciplinary) 25%
- Group grievance (classification) 25%

• In 2021-2022, 4 new files were referred under the PESRA. Of those, 3 were individual grievances — 2 termination grievances, and 1 disciplinary matter — and another was a group grievance with respect to the employer’s classification of employees.

Files closed

PESRA files closed as of March 31, 2022



- Withdrawal 39%
- Settlement 33%
- Decision 17%
- Administrative reason 11%

• In 2021-2022, 21 files under the PESRA were closed. Of those, 2 resulted in a decision being issued, 4 were arbitral awards, 7 were withdrawn, 6 were settled between the parties, and 2 were closed for administrative reasons.

Active caseload before the Board

In addition to the 4 new files received in 2021-2022, 66 files were carried forward from 2020-2021. Forty-nine (49) files will be carried forward into the next fiscal year, including 36 individual grievances, 9 complaints, 2 applications, and 2 policy grievances. Thirty-seven (37) of those files involve the Parliamentary Protective Services, 8 involve the Senate, 3 involve the House of Commons, and 1 involves the Library of Parliament.

Files carried forward, received, and closed under the PESRA from April 1, 2019, to March 31, 2022

| Fiscal year | Carried forward from previous year | Total new | Closed | Carried forward to next year |
|-------------|------------------------------------|-----------|--------|------------------------------|
| 2019-2020 | 77 | 12 | 16 | 73 |
| 2020-2021 | 73 | 3 | 10 | 66 |
| 2021-2022 | 66 | 4 | 21 | 49 |

Number of hearings scheduled

While 6 hearings were originally scheduled for the 2021-2022 reporting period, 4 were withdrawn before the hearing, 1 was postponed to 2022-2023 due to availability issues, and another was postponed following a settlement between the parties and will be withdrawn upon the settlement’s implementation.

Mediation

No mediations were held under the *PESRA* in 2021-2022.

Collective bargaining

Three (3) arbitral awards were issued in 2021-2022 following the establishment of arbitral boards for collective bargaining between the House of Commons and Unifor, the House of Commons and the Public Service Alliance of Canada, and the Senate and the Public Service Alliance of Canada. A supplementary award was also issued in the latter matter.

Moving forward

Over the coming year, we will continue to focus on providing timely access to justice through respectful, accessible, and fair processes and through promoting harmonious labour relations in the federal public sector and in Parliament.

While we will continue to provide the highest quality of adjudication services, we will further explore and promote, whenever possible, alternate dispute-resolution approaches, such as settlement conferences and mediation. We will also analyze our caseload in depth, as it is of utmost importance to better assess our needs, plan for the future, monitor and evaluate our progress, and implement the proper processes. As we review our results and the related data, it will be important to keep a keen eye on what they tell us and to make the necessary adjustments, to ensure the effectiveness of our methods and processes.

Finally, consultations with our stakeholders will continue to be a priority as they are an opportunity to share ideas and seek their feedback on present and future initiatives and to share with them the results of ongoing projects and initiatives. Those consultations also help us identify and monitor their needs and expectations, as well as future challenges, enabling us to provide more effective and timely support to the parties before us.

