



ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **2234-19-R**

Public Service Alliance of Canada, Applicant v **Wilfrid Laurier University**, Responding Party

BEFORE: Roslyn McGilvery, Vice-Chair

DECISION OF THE BOARD: November 1, 2019

1. This is an application for certification filed under the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended (the "Act").
2. Based on my review of the records maintained by the Board, I am satisfied that in an earlier proceeding under the Act the applicant has been found to be a trade union. Therefore, having regard to the Board's records and section 113 of the Act, the Board finds that the applicant is a trade union within the meaning of section 1(1) of the Act.
3. It appears to the Board on an examination of only the information provided in the application and the information and membership evidence filed by the applicant (see section 8(3) of the Act), that not less than 40% of the individuals in the bargaining unit proposed in the application for certification were members of the union at the time the application was made.
4. The responding party disputes the applicant's estimate of the number of employees in the applicant's proposed bargaining unit. Furthermore, the responding party proposes a different bargaining unit than that proposed by the applicant and it contends that the applicant's bargaining unit could not be appropriate. It gives notice under section 8.1 of the Act.
5. The Board finds that the bargaining unit described in the application could be appropriate. After comparing the membership evidence provided by the applicant against the information provided by the responding party, the Board cannot be certain that the percentage

of the individuals who appear to be members of the trade union is 40% or more in the bargaining unit proposed by the applicant. In these circumstances, the Board directs that the ballot box from the representation vote be sealed. The ballots are not to be counted until the Board so orders or the parties agree.

6. The Board directs that a representation vote be taken of the individuals in the following voting constituency:

all graduate teaching assistants employed by Wilfrid Laurier University in the Province of Ontario, save and except supervisors and those above the rank of supervisors.

7. All individuals who had an employment relationship with the responding party in the voting constituency on October 29, 2019, the certification application filing date, are eligible to vote. Employees having an employment relationship on October 29, 2019, the certification application filing date, include employees who were not at work on that date, so long as there is a reasonable expectation of their return to employment.

8. There is a dispute as to the geographic scope of the bargaining unit. The applicant asserts that the geographic scope is as set out in paragraph 6 above. The responding party asserts that the geographic scope should be "in the Regional Municipality of Waterloo and the City of Brantford." If any individuals are in dispute as a result of this difference, such individuals shall be entitled to cast a ballot. Any ballots cast by such an individual shall be segregated and not counted until the Board so orders or the parties agree.

9. While both parties assert that the bargaining unit includes graduate teaching assistants, the responding party specifies that the bargaining unit includes graduate teaching assistants "who are registered at Wilfrid Laurier University as graduate students." If any individuals are in dispute as a result of this difference, such individuals shall be entitled to cast a ballot. Any ballots cast by such an individual shall be segregated and not counted until the Board so orders or the parties agree.

10. Voters will be asked to indicate whether or not they wish to be represented by the applicant in their employment relations with the responding party.

11. The responding party has requested that the vote be taken electronically. It argues that the 426 graduate teaching assistants it says are in the proposed bargaining unit do not have regular hours or days of work. Further, all of the eligible voters have University email addresses and are accustomed to voting electronically respecting University affairs. It argues that an electronic vote would be the best way to provide them with a meaningful opportunity to participate in a representation vote.

12. The applicant does not want the vote to be conducted electronically. It says that it cannot confirm that all eligible voters have email addresses and it does not agree that electronic voting would be favoured among these individuals. It points to the fact that responses to electronic surveys among the University population have decreased. It says that the instant facts are distinguishable from those in which the Board has directed electronic votes in the past.

13. The Board has gradually increased the rate at which it orders electronic voting, which has proven to be an efficient and effective way to allow for greater accessibility to the ballot box (See: *Providence Healthcare*, 2019 CanLII 77815 (ON LRB) (August 15, 2019) ("*Providence*") at paragraphs 5-11).

14. The number of potential voters in this case is between 301 and 426, which is a significant number of voters. As the Board stated in *Providence, supra*, at paragraph 10, a significant number of prospective voters is one factor that may cause the Board to order an electronic vote when appropriate. I also note that the potential voters operate out of two campuses. I find that the responding party is in the best position to confirm whether it has email addresses for the potential voters, and it has confirmed this to be the case.

15. Electronic voting for Board matters is still in its infancy and the Board will have to determine whether electronic voting is appropriate on a case-by-case basis. Over time, it is inevitable that there will be incremental changes respecting what the Board will find to be an appropriate case for electronic voting. I find that, in the instant case, electronic voting would be an effective manner of conducting the representation vote in the circumstances and is the most efficient use of the Board's resources. Therefore, I direct that the vote in this matter be conducted electronically.

16. The vote will commence on **November 5, 2019** for a 24-hour period. Other vote arrangements, including the specific time of the vote

will be as determined by the Registrar and set out on the attached "Notice of Vote".

17. The responding party shall email only the Board the email addresses for all employees who might fall within the bargaining unit within one day of the date of this decision. Within this same timeframe, it must also email only the Board the mailing addresses, telephone numbers and employee numbers to the extent that it is in possession of such information for all employees who might fall within the bargaining unit. It is directed to email all of this information to the Board by **9:00 a.m. on November 4, 2019** at: OLRBVotes@ontario.ca.

18. The responding party is directed to forthwith email copies of this decision and the "Notice of Vote" to each employee in the voting constituency, and post copies of this decision and of the "Notice of Vote" adjacent to each of the posted copies of the "Notice to Employees of Application for Certification". These copies must remain posted for 45 business days.

19. Any party or person who wishes to make representations to the Board about any issue remaining in dispute which relates to the application for certification, including any matters relating to the representation vote, must file a detailed statement of representations with the Board and deliver it to the other parties, so that it is received by the Board within five days (excluding Saturdays, Sundays and holidays on which the Board is closed) of the date on which the vote is taken. Representations with respect to any status disputes must be made in accordance with the directions provided in Information Bulletin No. 4: Status Disputes in Certification Applications (Non-Construction).

20. The matter is referred to the Registrar.

"Roslyn McGilvery"
for the Board



ONTARIO LABOUR RELATIONS BOARD

Labour Relations Act, 1995

OLRB Case No: **2234-19-R**
Certification (Industrial)

Public Service Alliance of Canada, Applicant v **Wilfrid Laurier University**,
Responding Party

Application Date: October 29, 2019

**THIS IS AN OFFICIAL NOTICE OF THE BOARD AND
MUST NOT BE REMOVED, DEFACED OR DESTROYED**

**THE EMPLOYER MUST IMMEDIATELY POST THIS NOTICE (IN LOCATIONS
WHERE IT IS MOST LIKELY TO COME TO THE ATTENTION OF EMPLOYEES
OR OTHER INDIVIDUALS AFFECTED BY THE APPLICATION) NEXT TO
THE BOARD'S NOTICE TO EMPLOYEES OF APPLICATION AND/OR THE
BOARD'S DECISION ORDERING A VOTE**

**THE EMPLOYER OR ITS REPRESENTATIVE MUST RETURN A
CONFIRMATION OF POSTING TO THE REGISTRAR**

THIS NOTICE MUST REMAIN POSTED FOR 45 BUSINESS DAYS

NOTICE OF VOTE

TO THE PARTIES LISTED ON APPENDIX A:

The Board has ordered a Representation Vote. A copy of the Board's Decision ordering the Representation Vote is posted with this Notice.

VOTING CONSTITUENCY

The Board has ordered that the following group of voters (the voting constituency) is eligible to vote:

all graduate teaching assistants employed by Wilfrid Laurier University in the Province of Ontario, save and except supervisors and those above the rank of supervisors.

This voting constituency includes all employees (including dependent contractors) who were in the bargaining unit who had an employment relationship with the Employer on the Application Date at the top of this Notice. Employees having an employment relationship include employees on maternity leave, sick leave, vacation, workers' compensation, lay-off, etc. so long as there is a reasonable expectation of their return to employment.

METHOD OF VOTE

The vote will be conducted ONLINE and by TELEPHONE.

VOTE DATES

The vote will commence on **November 5, 2019 at 12:00 p.m.** and closes on **November 6, 2019 at 12:00 p.m. (Eastern Time).**

VOTE INSTRUCTIONS

Eligible voters will receive a personal identification number ("PIN") by email on **November 4, 2019**. The PIN is strictly for personal use and must not be shared.

A PIN is required to vote.

- To vote online, visit **<https://OLRB.simplyvoting.com>** and follow the instructions.
- To vote by telephone, call **1-877-382-9924** (toll free) and follow the instructions.

If an employee believes they are eligible to vote and does not receive a PIN, or if an employee cannot access their PIN for any reason, they may call the OLRB Help Desk at 416-326-7432. Assistance will be available on the following dates/times: November 5, 2019 (12 p.m. to 3 p.m.), November 6, 2019 (10 a.m. to 11 a.m.). All times listed are Eastern Time.

VOTE COUNT

If the parties agree at the vote about the eligibility of employees to vote, the ballots will normally be counted and a report that sets out the results of the vote will be posted next to this Notice. If any issues are not resolved, the results of the vote may not be announced, and a meeting and/or hearing may be held. However, many applications are settled by discussions with a Board Mediator without the need for a meeting or hearing.

The date, time and location of a Vote Count (if one is held) and of meetings and hearings (if meetings or hearings are scheduled) are attached.

SECRET BALLOT

The vote will be by secret ballot. Voters are entitled to vote without interference, restraint or coercion.

QUESTION ON THE BALLOT

The ballot that will be provided to voters contains the question which appears on the attached Schedule A.

If you wish to say something to the Board about this Application and to participate in any meetings and/or hearings held, you must send a written statement to the Board (as described on the Notice to Employees of Application) not later than November 14, 2019, the Vote Objection Date. Your written statement must be served on all other parties before you file it with the Board.

You should not write to the Board if the only thing you want to say is that you support or do not support the Union. You will have an opportunity to express your wishes by voting.

DATED: November 01, 2019



Catherine Gilbert
Registrar

Website: www.olrb.gov.on.ca

Address all communication to:

The Registrar
Ontario Labour Relations Board

505 University Avenue, 2nd Floor
Toronto, Ontario M5G 2P1
Tel: 416-326-7500
Toll-free: 1-877-339-3335
Fax: 416-326-7531

SCHEDULE A

QUESTION ON THE BALLOT

The ballot that will be provided to voters contains the following question:

In your employment relations with your Employer, do you wish to be represented by the Union?

ONTARIO LABOUR RELATIONS BOARD IMPORTANT NOTES

The Board's forms, Notices, Information Bulletins, Rules of Procedure and Filing Guide may be obtained from its website <http://www.olrb.gov.on.ca> or by calling 416-326-7500 or toll-free at 1-877-339-3335.

FRENCH OR ENGLISH

Vous avez le droit de communiquer et recevoir des services en français et en anglais. La Commission n'offre pas de services d'interprétation dans les langues autres que le français et l'anglais.

You have the right to communicate and receive services in either English or French. The Board does not provide translation services in languages other than English or French.

CHANGE OF CONTACT INFORMATION

Notify the Board immediately of any change in your contact information. If you fail to do so, correspondence sent to your last known address (including email) may be deemed to be reasonable notice to you and the case may proceed in your absence.

ACCESSIBILITY AND ACCOMMODATION

The Board is committed to providing an inclusive and accessible environment in which all members of the public have equitable access to our services. We will aim to meet our obligations under the *Accessibility for Ontarians with Disabilities Act* in a timely manner. Please advise the Board if you require any accommodation to meet your individual needs. The Board's Accessibility Policy can be found on its website.

COLLECTION AND DISCLOSURE OF INFORMATION AND DOCUMENTS

Any relevant information that you provide to the Board must in the normal course be provided to the other parties to the proceeding. Personal information collected on this form and in written or oral submissions may be used and disclosed for the proper administration of the Board's governing legislation and case processing. In addition, the *Tribunal Adjudicative Records Act, 2019* requires that the Board make adjudicative records (which include applications filed and a listing of such applications) available to the public. The Board has the power to make part or all of an adjudicative record confidential. The *Freedom of Information and Protection of Privacy Act* may also address the treatment of personal information. More information is available on the Board's website www.olrb.gov.on.ca. If you have any questions concerning the collection of information or disclosure of adjudicative records, contact the Solicitors' Office at the number listed above or in writing to the OLRB, 505

University Ave., 2nd floor, Toronto, ON M5G 2P1.

E-FILING AND E-MAIL

The Rules of Procedure and Filing Guide set out the permitted methods of filing. Forms and submissions may be filed with the Board by a variety of methods including the Board's e-filing system, but not by e-mail. Note that the e-filing system is not encrypted and e-filing is optional. Contact the Client Services Coordinator at the numbers listed above if you have questions regarding e-filing or other filing methods. If you provide an e-mail address with your contact information, the Board will in most cases communicate with you by e-mail from an out-going only generic account. Incoming emails are not permitted.

HEARINGS AND DECISIONS

Hearings are open to the public unless the Board decides that matters involving public security may be disclosed or if it believes that disclosure of financial or personal matters would be damaging to any of the parties. Hearings are not recorded and no transcripts are produced.

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ONTARIO LABOUR RELATIONS BOARD

Labour Relations Act, 1995

OLRB Case No: 2234-19-R
Certification (Industrial)

Public Service Alliance of Canada, Applicant v **Wilfrid Laurier University**,
Responding Party

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NOTICE OF VOTE POLL(S)

TO THE PARTIES LISTED ON APPENDIX A:

This notice contains information only about vote poll times and location(s). For other information about the Vote, please see the Notice of Vote (and Notices of Meeting and/or Hearing, if applicable).

Voters may vote at the following vote poll times and location(s):

Vote Poll Number: 1
Vote Poll Date: November 5, 2019 to November 6, 2019
Vote Poll Times: 12:00 PM to 12:00 PM
Location:

DATED: November 1, 2019

Travis Kearns
Manager, Mediation Services
Tel: 647-236-7574
Toll-free: 1-877-339-3335
Fax: 416-326-6299
travis.kearns@ontario.ca

Website: www.olrb.gov.on.ca

Address all communication to:

The Registrar
Ontario Labour Relations Board
505 University Avenue, 2nd Floor
Toronto, Ontario M5G 2P1
Tel: 416-326-7500
Toll-free: 1-877-339-3335
Fax: 416-326-7531



ONTARIO LABOUR RELATIONS BOARD

Labour Relations Act, 1995

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NOTICE - REGIONAL CERTIFICATION MEETING

TO THE PARTIES LISTED ON APPENDIX A:

The Board has scheduled the following:

Date(s) and Time: November 27, 2019 at 10:00AM
Location: 505 University Avenue, Floor 2, "Board Room", Toronto ON M5G 2P1

The purpose of a Regional Certification Meeting or Regional Termination Meeting is to mediate the issues in dispute, and to record the parties' positions on the outstanding issues.

Please bring with you any records that may be relevant to these issues, including documents that relate to the inclusion or exclusion of employees from the bargaining unit.

The Board's processes are explained in its Information Bulletins, available on the Board's website (see below). If you have any additional questions, please raise them at the meeting.

DATED: November 1, 2019

Travis Kearns
Manager, Mediation Services
Tel: 647-236-7574
Toll-free: 1-877-339-3335
Fax: 416-326-6299
travis.kearns@ontario.ca

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NOTICE OF HEARING

TO THE PARTIES LISTED ON APPENDIX A:

The Board has scheduled the following:

Hearing Type: Regular Hearing
Date(s) and Time: December 2, 2019 at 9:30AM
Location: 505 University Avenue, Floor 2, "Board Room", Toronto ON M5G 2P1

Hearing Type: Regular Hearing
Date(s) and Time: December 3, 2019 at 9:30AM
Location: 505 University Avenue, Floor 2, "Board Room", Toronto ON M5G 2P1

The purpose of the hearing is to hear the evidence and representations of the parties with respect to all matters relating to this application that have not been settled by the time the hearing occurs. The parties are entitled to be represented by counsel or an agent, and may be expected to call and examine witnesses, to conduct cross-examination, and to present argument.

If disputes about whether certain individuals should or should not be on the voters' list or in the bargaining unit form any part of the outstanding issues, the hearing will likely be postponed by one week. If this happens, a notice providing the new hearing date will be sent to the parties, and the Board will order the Employer to post the notice beside this Notice.

IF YOU DO NOT ATTEND, THE BOARD MAY DECIDE THE APPLICATION WITHOUT FURTHER NOTICE TO YOU AND WITHOUT CONSIDERING ANY DOCUMENT YOU MAY HAVE FILED.

DATED: November 1, 2019



Catherine Gilbert
Registrar

Website: www.olrb.gov.on.ca

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APPENDIX A

CaleyWray
65 Queen Street W
Suite 1600
Toronto ON M5H 2M5
Attention: Denis Ellickson
Tel: 416-775-4678
Fax: 416-366-3293
Email: ellicksond@caleywray.com; bowens@caleywray.com

Public Service Alliance of Canada
90 Eglinton Avenue E
Toronto ON M4P 2Y3
Attention: Tanya Ferguson
Regional Organizer
Tel: 647-417-1523
Fax: 416-485-8607
Email: fergusot@psac-afpc.com

Hicks Morley Hamilton Stewart Storie LLP
77 King Street W
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Toronto ON M5K 1K8
Attention: Alan Freedman
Tel: 416-864-7236
Fax: 416-362-9680
Email: alan-freedman@hicksmorley.com; keziah-ferreira-ally@hicksmorley.com

Hicks Morley Hamilton Stewart Storie LLP
77 King Street W
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Attention: Michael Smyth
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Email: michael-smyth@hicksmorley.com; molly-latchford@hicksmorley.com

Wilfrid Laurier University
75 University Avenue W
Waterloo ON N2L 3C5
Attention: Allison Arnold
Director Faculty and Staff Relations
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Fax: 519-884-4203
Email: aarnold@wlu.ca

Wilfrid Laurier University
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Waterloo ON N2L 3C5
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General Counsel
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