



ASSOCIATION OF
ADMINISTRATIVE +
PROFESSIONAL
STAFF AT UBC

Submission by the

Association of Administrative and Professional Staff of
The University of British Columbia

to the

Labour Relations Code Review Panel

regarding

B.C. Labour Relations Code Review

July 4, 2018

**Labour Relations Code Review Panel
Ministry of Labour**

Panel Members:

Barry Dong

Michael Fleming

Sandra Banister, Q.C.

Dear Panel Members,

RE: B.C. Labour Relations Code Review

Thank you for taking the time to consider our submission regarding the B.C. Labour Relations Code Review. We appreciate the Province's timely review of the B.C. Labour Relations Code (the Code) and the opportunity to present our unique perspective as one of the largest professional associations in the province.

We would like to see changes made to the Code that reflect the new reality of work and employment relations for British Columbians and to see that the Code protects all workers across the province.

The Association of Administrative and Professional Staff of The University of British Columbia is the professional association for the Management and Professional Staff group at UBC. We are the largest employee group at UBC and our over 4,500 members play vital roles in every function of the University. Our members provide leadership and professional expertise to UBC within academic faculties and research initiatives, as well as the University's central service departments. While the majority of our members are located at UBC's Point Grey Campus in Vancouver and the Okanagan Campus in Kelowna, AAPS members also work at hospitals and research sites across British Columbia.

In the Terms of Reference for the *Labour Relations Code* Review Panel (the Panel) the following statement was quoted:

“Improve fairness for workers, ensure balance in workplaces, and improve measures to protect the safety of workers at work so that everyone goes home safely and that workers and families are protected in cases of death or injury.”

Within our context as a professional association comprising a broad range of workers employed by a large and complex employer, we offer the following recommendations to the Panel. These

proposed changes are intended to address British Columbia’s continued transformation from a resource-driven economy into a knowledge-based economy. If implemented, they will improve fairness for workers by accurately reflecting the realities of today’s workplace.

AAPS recommends that the Panel:

Amend the Code to recognize professional associations which represent employees who do not have broad policy-setting authority.

The current rules regarding who is eligible to be represented by a bargaining agent such as a trade union have changed very little since the industrial era and do not adequately reflect the reality of many of the workers and workplaces of today.

The current rules around who can be covered by a collective bargaining agreement reflect industrial-era realities in which most employers had only one or two “bosses” who had hiring/firing responsibility **AND** authority to set broad policy for the employer. These individuals did not need the protection of collective bargaining agreements.

However, many of the employer’s activities on the shop floor were managed by “lead hands” who provided supervision and feedback of the employees, performed training functions, often engaged in the “performance management” techniques of the day and, most importantly, were eligible for protection under a collective bargaining agreement.

Today, many large employers such as universities, hospitals, and major corporations have multiple layers of employees, far beyond the ranks of “boss,” “lead hand” and “labourer” envisioned when the current rules around eligibility for protection by a bargaining agent were initially developed. The University of British Columbia alone has over 16,000 employees. At the time the current eligibility rules were developed, it simply wasn’t envisioned that there would be employers of that size or that employers would require as many layers of employees as is necessary today.

There are many employees today, including a significant portion of AAPS’ membership, who do not have any authority or input on the employer’s practices or policies and essentially serve a function equivalent to the “lead hand” of an industrial or trades-focused workplace. However, in a knowledge-focused workplace, those employees often have some limited responsibility around hiring, discipline or discharge. Generally speaking, these employees may provide

discipline up to and including suspension on their own, but they would require approval of a more senior manager to terminate an employee. While the final decision to terminate an employee may not rest with this manager, they will often be the one to implement the termination of the employee, including issuing a termination letter and/or meeting with the employee to inform them of their termination.

Under the current rules, professional associations like AAPS, which represent these employees are not recognized under the Code. Employers are under no obligation to recognize us as the agent for a group of employees, nor are they obliged to engage in collective bargaining.

Even where an employer chooses to voluntarily recognize the employee group (such as the University of British Columbia has done with AAPS), the employee group does not enjoy many of the rights or protections a trade union does under the Labour Relations Code. Amending the Code to recognize professional associations such as AAPS will have a number of positive impacts including:

- Improving fairness for workers in the modern economy and workplace
- Increasing good faith bargaining practices and issues resolution
- Promoting certainty and stable labour/management relations

Fairness for workers in the modern economy and workplace

It is a fundamental principle of labour-management relations that employees should have the right to democratically determine which organization, if any, should serve as their bargaining agent. Unfortunately, for the approximately 25% of University of British Columbia employees who are members of AAPS, recognition of their bargaining agent requires the benevolence of the University. Under the current version of the Code, the democratic decision of our members to organize collectively is rendered almost irrelevant.

And UBC is not alone in having a massive proportion of its workforce stripped of its democratic rights of representation. Similar percentages of employees are likely disenfranchised at other equally large and complex employers.

It is a well-settled fact that the best protection and insurance for an employee is collective bargaining and representation by a bargaining agent. Unfortunately, significant numbers of today's employees require the consent of their employer in order to be represented by a bargaining agent.

These employees will generally work at large employers, exacerbating the pre-existing power differential that exists between employer and employee in all work places. But most disturbingly, in circumstances where employees feel the need to collectively organize in order to prevent ongoing abuse by an employer, the employees will require their powerful and potentially abusive employer's consent to take steps to form or join a bargaining agent.

Good faith bargaining practices and issues resolution

Labour-management relations, like any contractual relationship, require good faith on the part of both parties to be successful. In addition, labour-management relationships require an effective third-party dispute resolution mechanism for disputes that cannot be resolved by the parties without the assistance of an outside group. While arbitration is the appropriate venue for disputes involving employees and their rights, the Labour Relations Board generally adjudicates disputes that occur at the organizational level.

Professional associations such as AAPS do not currently have access to the Labour Relations Board to adjudicate disputes. Therefore, absent collective bargaining language to the contrary, employers are free to interfere in the operations of professional associations without fear of repercussions. Entrenchment under the Labour Relations Code and access to the Labour Relations Board would protect professional associations who serve as bargaining agents from interference from unscrupulous employers.

Access to the Labour Relations Board would also protect employees where their bargaining agent has breached their duty of fair representation. Currently, where a member of a professional association that serves as a bargaining agent feels they have not been fairly represented, that member must seek redress through the court system. That process is slow, expensive and generally requires that the individual obtain legal counsel in order to navigate the process efficiently.

Access to the Labour Board would allow individuals with concerns about their representation to have those complaints adjudicated in a more timely and cost-effective manner. In addition, the matter would be adjudicated by an individual who is a recognized expert in labour and employment law. If the matter is adjudicated by the courts, there is no guarantee that would be the case.

Promote certainty and harmonious and stable labour/management relations

The creation of a collective bargaining relationship has benefits to both employees and employers. A well-crafted collective bargaining agreement provides stability to an employer by setting out clear and transparent rules governing the workplace. More importantly, a collective bargaining agreement and access to the Labour Relations Board also provides employers with timely and cost-effective adjudication of concerns. This adjudication would occur under the widely tested and understood statutory and regulatory regimes that govern the interactions of all other bargaining agents in the province.

ABOUT THE ASSOCIATION OF ADMINISTRATIVE AND PROFESSIONAL STAFF OF THE UNIVERSITY OF BRITISH COLUMBIA

The Association of Administrative and Professional Staff of The University of British Columbia (AAPS) is the professional association for the Management and Professional Staff group at UBC.

Management and Professional Staff (M&P Staff) play critical roles in every function of the University. Their leadership and professional expertise are essential to a world-class institution of learning, research, innovation, and community engagement.

AAPS members are highly qualified professionals overseeing information technology; conducting and facilitating research; directing academic and community programs; managing facilities and infrastructure; guiding and supporting students as academic advisors, counsellors, coaches, program administrators, career and co-op advisors, and travel abroad program coordinators. AAPS members lead industry initiatives and seek partnerships with the broader community for economic development, education, and communication.

AAPS is the legal bargaining agent for the M&P Staff group and represents its over 4,500 members in collective bargaining and dispute resolution with the University.

AAPS supports members in resolving workplace issues and strives to improve their work experience at UBC. The Association also creates a connected community of members through networking and professional development opportunities.

AAPS is registered under the B.C. Societies Act.



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