



## ONTARIO LABOUR RELATIONS BOARD

Labour Relations Act, 1995

OLRB Case No: 1998-22-R  
Certification (Industrial)

Canadian Union of Public Employees, Applicant v University of Waterloo,  
Responding Party v Faculty Association University of Waterloo, and University of  
Waterloo Staff Association, Intervenors

### COVER LETTER

TO THE PARTIES LISTED ON APPENDIX A:

The Board is attaching the following document(s):

Decision - January 04, 2023

DATED: January 04, 2023

Catherine Gilbert  
Registrar

Website: [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca)

Address all communication to:

The Registrar  
Ontario Labour Relations Board  
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ONTARIO LABOUR RELATIONS BOARD

THIS IS AN OFFICIAL NOTICE OF THE BOARD

OFFICIAL NOTICES OF THE BOARD MUST NOT BE REMOVED, DEFACED  
OR DESTROYED

ALL NOTICES MUST IMMEDIATELY BE POSTED BY THE EMPLOYER (IN  
LOCATIONS WHERE THEY ARE MOST LIKELY TO COME TO THE  
ATTENTION OF EMPLOYEES OR OTHER INDIVIDUALS AFFECTED BY THE  
APPLICATION) NEXT TO THE APPLICATION, THE BOARD'S NOTICE TO  
EMPLOYEES OF APPLICATION, AND/OR THE BOARD'S DECISION

NOTICES MUST REMAIN POSTED FOR 45 BUSINESS DAYS



## ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **1998-22-R**

Canadian Union of Public Employees, Applicant v **University of Waterloo**, Responding Party v Faculty Association University of Waterloo, and University of Waterloo Staff Association, Intervenors

**BEFORE:** Patrick Kelly, Vice-Chair

**DECISION OF THE BOARD:** January 4, 2023

1. This is an application for certification filed under the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended (the "Act").
2. Except with respect to the emphasized portions, the parties have agreed on the following bargaining unit description:

*all employees of the University of Waterloo employed as sessional faculty and/or special lecturers in the Province of Ontario engaged in instructing, teaching, and/or lecturing as per an appointment of less than one year in duration, save and except Chairs, including Associate Chairs, persons above the rank of Chair, and persons primarily employed with the University of Waterloo in a position other than as a sessional faculty and/or special lecturer but who may be appointed as a sessional faculty and/or special lecturer from time to time in addition to their primary position, and employees covered by the Memorandum of Agreement between the University of Waterloo and the Faculty Association of the University of Waterloo or the University of Waterloo Staff Association as of December 6, 2022.*

The applicant's position is that the bargaining unit employees should be described as sessional faculty, whereas the responding party and the intervenor submit the appropriate descriptor is special lecturers.

Furthermore, the responding party and the intervenor propose to exclude from the bargaining unit persons primarily employed with the University of Waterloo in a position other than as a sessional faculty and/or special lecturer but who may be appointed as a sessional faculty and/or special lecturer from time to time in addition to their primary position, whereas the applicant's position is that such persons should be in the bargaining unit. Finally, the intervenor's position is that employees covered by the Memorandum of Agreement between the University of Waterloo and the Faculty Association of the University of Waterloo or the University of Waterloo Staff Association as of December 6, 2022 should be excluded from the bargaining unit. The applicant opposes that exclusion.

3. The Board has determined, however, that the applicant's right to certification cannot be affected by the Board's ultimate decision as to the inclusion or exclusion of the disputed classifications. While the parties disagree on how to describe the employees who are in the bargaining unit, it seems clear that, whether they are referred to as sessional faculty or as special lecturers, they are employees of the University of Waterloo employed in the Province of Ontario engaged in instructing, teaching, and/or lecturing as per an appointment of less than one year in duration. Furthermore, the disagreement on the exclusions has no bearing on the vote outcome. On the taking of the representation vote directed by the Board, more than 50% of the ballots cast by employees in the bargaining unit were cast in favour of the applicant, regardless of the outcome of the dispute over the bargaining unit.

4. Accordingly, the Board, pursuant to its discretion under section 9(2) of the Act, having regard to the agreement of the parties and pending the final resolution of the composition of the bargaining unit, certifies the applicant as the bargaining agent for:

all employees of the University of Waterloo employed in the Province of Ontario engaged in instructing, teaching, and/or lecturing as per an appointment of less than one year in duration, save and except Chairs, including Associate Chairs, persons above the rank of Chair.

and pending the resolution of the status of these categories, excluding as well:

persons primarily employed with the University of Waterloo in a position other than as a sessional faculty and/or special lecturer but who may be appointed as a sessional faculty and/or special lecturer from time to time in addition to their primary position, and employees covered by the Memorandum of Agreement between the University of Waterloo and the Faculty Association of the University of Waterloo or the University of Waterloo Staff Association as of December 6, 2022.

5. A final certificate must await the final determination of the appropriate bargaining unit.
6. The Registrar will destroy the ballots cast in the representation vote taken in this matter following the expiration of 30 days from the date of this decision unless a statement requesting that the ballots should not be destroyed is received by the Board from one of the parties before then.
7. Meeting and hearing dates set previously are hereby cancelled.
8. Either of the parties may request the Board determine the composition of the bargaining unit if the parties cannot resolve that matter. If the parties have reached agreement on the composition of the bargaining unit, either party may request the Board issue a final certificate in respect of the agreed upon bargaining unit. If, within one year of the date of this decision, the Board has not been requested to issue a final certificate or to determine the composition of the bargaining unit, and the parties have not entered into a collective agreement, this decision shall be deemed to constitute both certification of the applicant pursuant to section 10 of the Act and the certificate issued by the Board, and the bargaining unit described above, shall be deemed to be the Board's final determination of the bargaining unit.
9. The responding party is directed to post copies of this decision immediately, adjacent to all copies of the "Notice of Vote" posted previously. These copies must remain posted until the date that had been set for the hearing.

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"Patrick Kelly"  
for the Board

## APPENDIX A

Canadian Union of Public Employees  
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