



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

COVER LETTER

TO THE PARTIES LISTED ON APPENDIX A:

The Board is attaching the following documents:

Decision - December 12, 2022
Notice of Electronic Vote
Notice of Electronic Vote Count
Notice of RCM
Notice of Hearing
Declaration

DATED: December 12, 2022

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



ONTARIO LABOUR RELATIONS BOARD

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

Canadian Union of Public Employees, Applicant v **University of Waterloo**, Responding Party

BEFORE: Maureen Doyle, Vice-Chair

DECISION OF THE BOARD: December 12, 2022

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. The applicant has provided electronic membership evidence in support of its application, and also provides information regarding the production of the electronic membership evidence. Each piece of membership evidence includes a "Final Audit Report" explaining the process by which the cards were created, signed by the employee, received by a representative of the applicant as well as the security process by which the integrity of the membership cards was protected. The Board has accepted the use of such software in other cases. For these reasons, the Board accepts the electronic membership evidence filed by the applicant in this case.
4. 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.

5. 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.

6. With respect to its dispute regarding the bargaining unit description, the responding party states in part that the applicant uses the term "Sessional Faculty", but that the responding party employer does not use that title. Rather, it says, it uses the title "Special lecturer". It has provided a "Schedule A" in which it uses the title "Special lecturer" for the positions listed. It also submits that there should be no vote ordered until the name of the position the applicant seeks to represent is clarified. The applicant has responded to the responding party's response. It objects to delaying the vote and states that the responding party uses various job titles interchangeably, including "Sessional Faculty", and also confirms that the Schedule A provided by the employer "is largely accurate and captures those that CUPE seeks to represent".

7. Additionally, the responding party employer states that many of the employees the applicant seeks to represent are already members of either the Faculty Association of the University of Waterloo (FAUW) or of the University of Waterloo Staff Association (UWSA). The responding party states that neither FAUW nor UWSA is a trade union within the meaning of the Act, nor are either one of them party to a collective agreement. It states, however, that it has concluded Memoranda of Agreement with them which "purport to govern terms and conditions of certain University employees who may fall within the applicant's proposed unit".

8. The Board has received no communication from either FAUW or UWSA. The responding party states that some employees who are members of FAUW and/or UWSA would be encompassed in the proposed bargaining unit. In its correspondence regarding the responding party's response, the applicant states that does not seek to represent any employees of the responding party who are currently subject to either the FAUW or the UWSA Memoranda of Agreement. In all of these circumstances, the significance, if any, of the presence of and or membership in FAUW and/or UWSA at the workplace, will be addressed, if necessary, in the normal course.

9. 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 finds that the numerical difference between the parties is not significant. The applicant has established sufficient membership support in its proposed bargaining unit for the purposes of obtaining a representation vote and having that vote counted.

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

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

11. The vote should be held electronically in keeping with the Board's Notice to the Community dated August 19, 2022. Electronic voting includes voting by telephone. In order to conduct the vote, the responding party is directed to provide only to the Board the e-mail addresses for each of the individuals in the voting constituency so that the Board can provide electronic e-mail notice of the vote. Within this same timeframe, the responding party must also e-mail only the Board the mailing addresses, telephone numbers and employee numbers to the extent that it is in possession of such information for each of the individuals in the voting constituency. It is directed to e-mail all of this information to the Board by **9:30 a.m. on December 13, 2022, in Excel format at: OLRBVotes@ontario.ca.**

12. The vote will commence on **December 14, 2022** and continue for a period of 48 hours. This period may be extended at the discretion of the Manager of Field Services. Other vote arrangements will be as determined by the Registrar and set out on the attached "Notice of Vote".

13. All individuals who had an employment relationship with the responding party in the voting constituency on December 6, 2022, the certification application filing date, are eligible to vote. Employees having an employment relationship on December 6, 2022, 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.

14. There may be a dispute between the parties as to whether or not persons primarily employed with the University of Waterloo in a position other than as a special lecturer, but who may be appointed as a special lecturer from time to time in addition to their primary position, or who is a member of FAUW and/or UWSA, should be included in the bargaining unit. If any individual holding such a position wishes to cast a ballot, the individual shall identify himself or herself as occupying a disputed position and such individual shall then be entitled to cast a ballot. Any ballot cast by such an individual shall be segregated and not counted until the Board so orders or the parties agree.

15. 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.

16. The responding party is directed to 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.

17. 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).

18. The matter is referred to the Registrar.

"Maureen Doyle"
for the Board



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CONFIRMATION OF POSTING

Instructions: Each Employer or Employer's Representative must fill out this form after posting of applicable documents and send it to the Registrar of the Board. Although the Application and Notice to Employees must be posted immediately, the Employer may wait to complete ONE form to indicate posting of Application, Notice to Employees and Response, and then file this form along with its Response.

Forms indicating immediate posting of OTHER documents should be filed as and when the documents are posted.

Name of Employer completing the Posting:
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Name and Title of Person completing this Form:
--

I declare that the above-named Employer has posted, according to the above instructions, copies of the following documents (if and as applicable) at the workplace(s) or at worksite(s) where the documents are most likely to come to the attention of the employees or other individuals affected by the Application.

DOCUMENT	NUMBER POSTED	DATE POSTED	TIME POSTED
Application and Notice to Employees of Application			
Response			
Decision and Notice of Vote, Vote Poll(s), Vote Count, Meeting, Hearing			
Vote Office's Report			

DATE:

SIGNATURE:



ONTARIO LABOUR RELATIONS BOARD

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Canadian Union of Public Employees, Applicant v University of Waterloo,
Responding Party

Application Date: December 6, 2022

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 ELECTRONIC VOTE

TO THE PARTIES LISTED ON APPENDIX A:

The Board has ordered a Representation Vote. A copy of the Board's Decision ordering the 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 University of Waterloo Sessional Faculty and/or Special Lecturers in the Province of Ontario, instructing, teaching, and lecturing, as per an appointment of less than one year in duration, save and except Chairs, including Associate Chairs, and persons above the rank of Chair.

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 DATE(S)

The vote starts on December 14, 2022 at 2:00 PM and ends on December 16, 2022 at 2:00 PM (Eastern Standard Time).

VOTE INSTRUCTIONS

A personal identification number ("PIN") is needed to vote. Eligible voters will receive an email containing their confidential PIN and detailed instructions before the vote commences. PINs are strictly for personal use by voters and must not be shared with anyone.

If an employee believes they are eligible to vote and does not receive a PIN, or requires any assistance to vote, they may contact the Ontario Labour Relations Board ("OLRB") Help Desk (see hours and contact information below). If no one answers, employees should leave a detailed message with their full name, contact information, and OLRB case number, and a Vote Officer

will respond to the message as soon as possible.

OLRB Help Desk Telephone:

647-280-5419

OLRB Help Desk Hours of Operation:

December 14, 2022 - 4:00 PM to 5:00 PM
December 15, 2022 - 10:00 AM to 11:30 AM
December 16, 2022 - 12:00 PM to 1:00 PM

All times listed are Eastern Standard Time.

TELECONFERENCE

Representatives for each of the parties are required to participate in a conference call with the Vote Officer after the Vote to discuss any outstanding issues. The Board has scheduled the following:

Date and Time: December 16, 2022 at 3:00 PM
Method: Teleconference (Call coordinates to be provided later)

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 December 23, 2022, 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: December 12, 2022

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

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.

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

Personal information is collected on this form under the authority of the Board's governing legislation to assist in the processing of cases before it. Information received in written or oral submissions may be used and disclosed for the proper administration of the Board's legislation and processes. Any relevant information that you provide to the Board must in the normal course be provided to the other parties to the proceeding. The Freedom of Information and Protection of Privacy Act may also address the collection, use and disclosure of personal information. If you have any questions, contact the Solicitors' Office at the numbers 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. In the event of emergencies or other circumstances, the Board may post a Notice to Community on its website, which will prevail over the Rules of Procedure and Filing Guide. You should check the Board's website prior to filing. Note that the e-filing system is not encrypted. 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.

The Board issues written decisions, which may include the name and personal information about persons appearing before it. Decisions are available to the public from a variety of sources including the Ontario Workplace Tribunals Library and www.canlii.org. Some summaries and decisions may be found on the Board's website.



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NOTICE OF ELECTRONIC VOTE COUNT

TO THE PARTIES LISTED ON APPENDIX A:

As set out in the Notice of Vote, a teleconference has been scheduled with representatives for each of the parties to discuss any outstanding issues.

The ballots in this Representation Vote will be counted/tabulated on December 16, 2022 at 5:00PM. A Vote Officer's Report communicating the results of the Representation Vote will be released to the parties following the count.

DATED: December 12, 2022

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

NOTE:
Address all communication to:

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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: January 4, 2023 at 10:00AM
Method: Video Conference / Teleconference
(coordinates to be provided at a later date)

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 have 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: December 12, 2022

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:	January 9, 2023 at 9:30AM
Hearing Method:	Video Conference (coordinates to be provided at a later date)

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: December 12, 2022

Catherine Gilbert
Registrar

Website: www.olrb.gov.on.ca

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APPENDIX A

Canadian Union of Public Employees
Attention: Dave Steele
Barrister & Solicitor
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Fax: 905-739-4000
Email: dsteele@cupe.ca; strevellion@cupe.ca

Canadian Union of Public Employees
Attention: Kristy Davidson
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Fax: 905-739-4004
Email: kdavidson@cupe.ca

Canadian Union of Public Employees
Attention: President/ Director/ Manager
Tel: 905-739-3999
Fax: 905-739-4004
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Ogletree Deakins International LLP
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University of Waterloo
Attention: Michelle Hollis
Acting Chief Human Resource Officer
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Faculty Association of the University of Waterloo ("FAUW")
Attention: Mary Hardy
President
Tel: 519-888-4567 Ext 45510
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University of Waterloo Staff Association ("UWSA")
Attention: Agata Jagielska
President
Tel: 519-888-4567 Ext 43618
Email: agata.jagielska@uwaterloo.ca