



Federal Public Sector
Labour Relations and
Employment Board

*Parliamentary Employment
and Staff Relations Act*
Annual Report

APRIL 1, 2017,
to MARCH 31, 2018

Canada 

© Minister of Public Services and Procurement and Accessibility 2018
Cat. No. SV1-3E-PDF

This publication is also available on the Board's website at
<http://www.fpslreb-crtespf.gc.ca>.

Federal Public Sector Labour Relations and Employment Board

Chairperson: Catherine Ebbs

Vice-Chairpersons: David Paul Olsen
Margaret Shannon

Full-time Members: Stephan J. Bertrand
Nathalie Daigle
Bryan Gray
Chantal Homier-Nehmé
John G. Jaworski
Steven B. Katkin
Michael F. McNamara (until May 31, 2017)
Marie-Claire Perrault

Part-time Member: Dev A. Chankasingh

Table of Contents

Message from the Chairperson	1
Introduction	4
The Board and the <i>Parliamentary Employment Staff Relations Act</i>	6
Proceedings before the Federal Public Sector Labour Relations and Employment Board	7
Collective bargaining	9
Mediation.....	9
Reasons for decisions issued	10
Proposed and recent legislative changes	10
Tables	14
Table 1: Bargaining Units and Bargaining Agents under the <i>Parliamentary Employment and Staff Relations Act</i> as of March 31, 2018.....	14
Table 2: Number of Bargaining Units and Public Service Employees by Bargaining Agent as of March 31, 2018	15
Table 3: Grievances, Complaints, and Applications Received, April 1, 2014 to March 31, 2018	16
Table 4: Grievances and Board Cases Carried Forward, Received, and Completed, April 1, 2014 to March 31, 2018	16



Message from the Chairperson

I am pleased to submit to Parliament the annual report on the administration of the *Parliamentary Employment and Staff Relations Act (PESRA)* for the period from April 1, 2017, to March 31, 2018.

The past year has been quite dynamic for the Federal Public Sector Labour Relations and Employment Board (the Board or FPSLREB) on many fronts. It included the passage of Bill C-44, which extended the Board's mandate in relation to the *Canada Labour Code (CLC)* and parliamentary employees. In addition, Bill C-65 was tabled before Parliament. It amends Part II of the *CLC* to strengthen its framework for the prevention of harassment and violence, including sexual harassment and violence, in the workplace. The proposed legislation creates a framework by which these matters will be heard before the Board, while protecting the principle of parliamentary privilege, an important component of the *PESRA*. In February 2018, I appeared before the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) to discuss the impact of Bill C-65 on the Board's mandate. A transcript of that discussion is available at <https://www.ourcommons.ca/DocumentViewer/en/42-1/HUMA/meeting-91/evidence>. In addition, Bill C-7, which came into force this fiscal year to extend the Board's mandate in relation to collective bargaining and labour relations pertaining to the RCMP, also resulted in the change in name of the Board.

The Board is also nearing the conclusion of a major round of collective bargaining in the federal public service as well as the implementation of initiatives to address its case inventory and to enhance its case management. These are in addition to continued work on the administration of our statutory mandates with respect to labour relations and staffing matters.

The Board continued to resolve a variety of labour relations and staffing disputes and complaints through the case management process, often without resorting to a hearing. Through its adjudication services and expertise, the Board has also issued several decisions for the federal public sector, adding to its jurisprudence in both staffing and labour relations, including two decisions and one arbitral award related to matters under the *PESRA*.

In renewing its broad public sector mandate, the Board has identified three key priorities: modernizing its case management, reducing its case inventory, and achieving greater efficiency in its overall processes while encompassing the values of fairness and transparency in its proceedings. It has also revisited how best to ensure uninterrupted service excellence while looking ahead to integrating its additional mandates.

In this fiscal year, the Board had another member vacancy occur. I have continued to make every effort to ensure a full complement of members, both full-time and part-time, as this is an essential element of ensuring that cases can be heard, and it is vital to our efforts to reduce the case inventory. It is anticipated that vacancies will be filled in the next fiscal year. I have also engaged in activities that encourage dialogue with stakeholders on different approaches to case reduction and have worked with two stakeholders in particular on a case management project. Again, I must sincerely thank the members of the Client Consultation Committees for their ongoing engagement in the work of the Board.

Finally, our Board has engaged in important innovations this past year. It advanced a new scheduling process last spring while simultaneously processing thousands of cases, with over 2300 cases received and close to 2000 cases closed in the past year. I am also very pleased that the Board and its supporting secretariat now have access to a consolidated electronic case management system. While modest in scope and still in the beginning stages of an integrated case management system, it allows the Board to function in a more integrated way and advances the grouping of files, among other benefits. Work has continued with the Administrative Tribunals Support Service of Canada (ATSSC) to ensure that the Board is well supported. This includes the last of three mergers of key teams within the FPSLRB Secretariat dedicated to the Board's combined labour relations and employment mandate.

In the past year, the Board also celebrated an important milestone with respect to its mandate: the 50th anniversary of the labour relations legislative framework that provides collective bargaining and unionization in the federal public sector. The year also marked 14 years since the independent adjudicative staffing regime was implemented for the federal public service.

We have come a long way since the first footsteps of the new Board in November 2014. I am well aware that much work still needs to be done but am continually impressed by



the commitment of our Board and of the staff of the Secretariat to work towards meeting our objectives. I wish to expressly thank our Board members, the employees of the FPSLREB Secretariat, and other colleagues within the ATSSC who support the work of the Board for working together to reach the next milestones associated with the Board's mandate. Likewise, I would like to thank our stakeholders, who demonstrate tremendous commitment to public sector labour relations and staffing matters.

Catherine Ebbs

Chairperson

Federal Public Sector Labour Relations and Employment Board

Introduction

The FPSLREB is responsible for interpreting and applying the following legislation:

- the *Federal Public Sector Labour Relations and Employment Board Act (FPSLREBA)*;
- the *Federal Public Sector Labour Relations Act (FPSLRA)*;
- the *Public Service Employment Act (PSEA)*;
- the *Canadian Human Rights Act (CHRA)*;
- the *Parliamentary Employment and Staff Relations Act (PESRA)*;
- the *Public Sector Equitable Compensation Act (PSECA)*;
- the Yukon *Public Service Staff Relations Act* and the Yukon *Education Staff Relations Act*, and
- certain provisions of Part II of the *Canada Labour Code (CLC)* and other relevant legal and labour relations standards.

The FPSLREB, as the administrative tribunal charged with administering the *FPSLRA*, resolves disputes between federal employees and their employer on all matters pertaining to the following:

- unionization;
- the collective bargaining of conditions of employment;
- requests for collective agreement interpretations;
- unfair labour practice complaints; and
- grievances filed by employees.

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 Service, and the Parliamentary Budget Officer are governed by the *PESRA*. The FPSLREB is the administrative tribunal charged with administering that legislation. It resolves disputes between parliamentary employees and their employer.

The Board also resolves pay equity, harassment, and other human rights matters. Although an express mandate in the area of the *Canadian Human Rights Act* does not exist in relation to the *PESRA*, there is an express statutory mandate to interpret the *CHRA* as it relates to its statutory mandate and to order remedies, including damages under that Act, under the



Federal Public Sector Labour Relations Act (FPSLRA) and the Public Service Employment Act (PSEA).

Under the *FPSLRA*, Parliament has also determined that Part II of the *CLC* applies to federal employees as it pertains to reprisal. For example, the FPSLREB is the administrative tribunal charged with ruling on all complaints filed by federal employees when their employer has imposed disciplinary measures on them for acting in accordance with Part II of the *CLC*. Under Bill C-44, which was passed in June 2017, a similar mandate was introduced for employees under the *PESRA*.

The FPSLREB has extensive expertise in adjudication and dispute resolution, including mediation. In addition to hearing labour relations complaints and applications, the Board hears individual, group, and policy grievances filed under collective agreements. Excluded employees, who are not part of a bargaining unit, also have recourse to the Board for matters of discipline.

The FPSLREB is also responsible for the impartial and timely consideration and disposition of complaints submitted under the *PSEA* with respect to internal appointment and layoff processes in the federal public service.

The FPSLREB conducts hearings, issues decisions, holds settlement conferences, conducts mediations, and engages in other case management strategies to resolve matters in dispute. In fulfilling its mandate, the FPSLREB fosters fair and transparent staffing practices, which contribute to a public service that is based on merit and that embodies linguistic duality and human rights.

For all those activities, the Board provides mediation and dispute resolution services to help parties reach fair and negotiated collective agreements, manage their labour relations under collective agreements, and resolve grievances and staffing complaints without resorting to a hearing, whenever possible.

Under an agreement with the Yukon government, the FPSLREB administers its collective bargaining and grievance adjudication systems, acting as the Yukon Teachers Labour Relations Board and the Yukon Public Service Labour Relations Board.

The Board and the *Parliamentary Employment Staff Relations Act*

One of the important milestones in the history of the Board was the passage of the *Parliamentary Employment Staff Relations Act (PESRA)* in 1986. Part I (“Staff Relations”) of the *PESRA* gives employees of parliamentary institutions the right to form a union to collectively bargain their conditions of employment. It also gives employees the right to file grievances about those conditions and, in certain cases, to refer them to adjudication before a neutral third party.

While the bulk of the Board’s caseload comes from its stakeholders who fall under the *Federal Public Sector Labour Relations Act (FPSLRA)*, the Board also has significant experience with Parliamentary labour relations. It has been the Board responsible for this area since Parliamentary employees first attained the right to bargain collectively in 1987. Tables 1 and 2 of the report provide an overview of the bargaining units and bargaining agents under the *PESRA* as of the end of this fiscal year.

Part I of the *PESRA* is administered and applied by the Board, which hears several types of labour relation disputes under that Act, such as applications for certification, unfair labour practice complaints, and designations of persons employed in managerial and confidential capacities.

Under the *PESRA*, interest arbitration is the only means of resolving a bargaining impasse. This means that there is no right to strike or lockout. In these situations, the



Board acts as an interest arbitration board. The Chair appoints a tripartite panel composed of two persons representing the interests of each party, along with a Board member who chairs the panel. Such panels are deemed to act as the Board for the purpose of dealing with the bargaining dispute, and they render binding decisions, which form parts of collective agreements.

The Board’s alternate dispute resolution services are also offered and well-utilized to resolve labour relations complaints, applications, grievances,



and staffing issues under the *PESRA* via mediation and without the need for a formal hearing. More information on the mediations held in 2017-18 is provided on page 5 of this report. In addition to collective bargaining disputes, the Board deals with several types of grievances under the *PESRA*, as described in the following section.

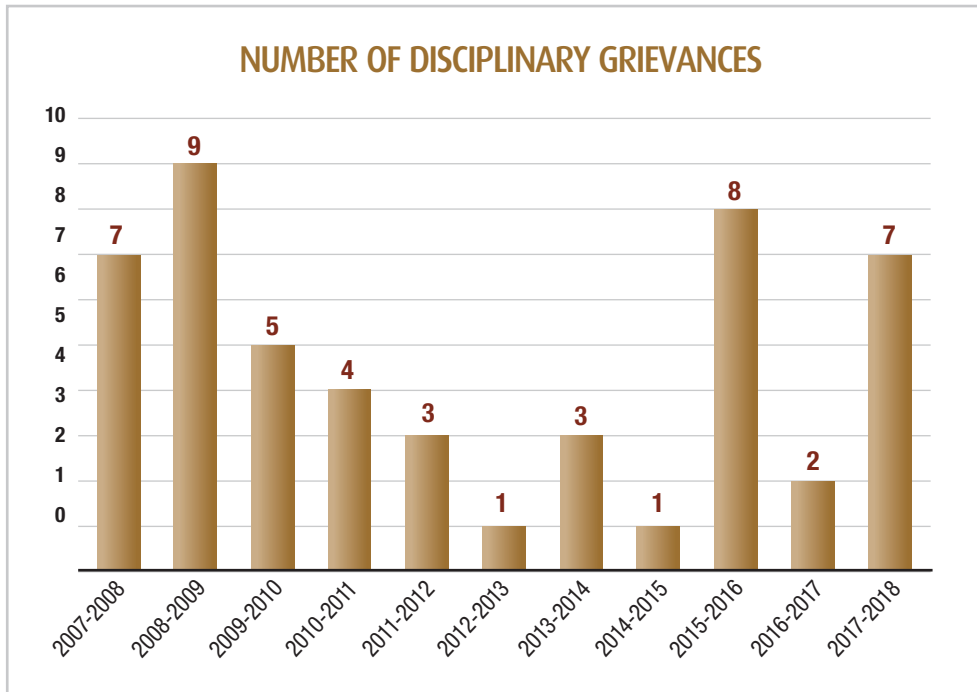
Proceedings before the *FPSLR*EB under the *PESRA*

Four types of grievances may be adjudicated under the *PESRA*.

- The first type arises from the application or interpretation of collective agreements or arbitral awards.
- The second type includes disciplinary action resulting in a suspension or financial penalty and termination of employment for reasons other than rejection on probation for an initial appointment.
- The third type includes grievances related to demotions of employees, to denials of appointment, and to classification. They are heard and determined by an adjudicator selected by the parties who is not a member of the *FPSLR*EB.
- The fourth type refers to policy grievances under section 70 of the *PESRA*, which requires that the *FPSLR*EB look into allegations that cannot be the subject of a grievance by an individual employee. Those situations occur when the employer or the bargaining agent seeks to enforce an obligation alleged to arise from a collective agreement or an arbitral award.

As of March 31, 2018, 34 new cases had been filed with the *FPSLR*EB. Of these, 28 were grievances, including 5 policy grievances. The number of disciplinary grievances is higher than last year; only 2 disciplinary grievances were filed.

The graph that follows presents the fluctuation (highs and lows) of disciplinary grievances.



Other matters before the Board included five complaints, which included one complaint of a violation of section 6 of the *PESRA* (employer participation in an employee organization), one complaint for a failure to implement a grievance decision, and three complaints filed under section 10 (powers, duties, and functions) of the *PESRA*. Those three complaints are about the failure to bargain and an allegation that the employer failed to consult the bargaining agent. The Board also received one application for the determination of a unit for collective bargaining.

Since the filing of the first policy grievance in fiscal year 1990-1991, the Board has received 27 such grievances in total under the *PESRA*. As mentioned earlier, the Board received 5 policy grievances in 2017-2018, which represents 18% of the total number of policy grievances received since 1990-1991. Four of them, which concerned “ongoing errors in pay”, were withdrawn by the bargaining agent a few months after being filed.

The FPSLRB disposed of 18 *PESRA* cases during the period under review, 2 of which were closed as a result of an arbitral award, and 1 following the issuance of a decision. The remainder of the cases were withdrawn.



As noted earlier, Tables 3 and 4 provide a list of grievances by type, complaints, and applications before the FPSLREB from April 1, 2014, to March 31, 2018.

Sixty-six cases under the *PESRA* will be carried forward into the next fiscal year, 40 of which involve the Parliamentary Protective Service (PPS), including 2 applications for the Board to determine a unit appropriate for collective bargaining. The remaining cases being carried forward into next year include 12 matters involving the House of Commons, 3 involving the Library of Parliament, 9 involving the Senate, and 1 involving the Office of the Conflict of Interest and Ethics Commissioner. The remaining case consists of an application filed by the Canadian Association of Professional Employees, during the fiscal year in review, for the determination of the unit for collective bargaining within the Office of the Parliamentary Budget Officer.

See Table 4 for a list of grievances and Board cases carried forward, received, and completed between April 1, 2014, and March 31, 2018.

Collective bargaining

As was the case in the core public service, the parliamentary precinct was subject to a protracted round of the bargaining that was largely completed in the current fiscal year. Toward that end, the FPSLREB conducted five interest arbitration hearings in fiscal year 2017-2018. Awards were issued in two of those matters, both involving the Library of Parliament and the Public Service Alliance of Canada. Awards for the remaining three units will be issued early in fiscal 2018-2019. There were no requests for conciliation received during this period. As of the preparation of this report, the parties are preparing to start the next round of negotiations.

Mediation

Parties with matters before the Board may choose mediation as a mechanism to resolve the issues underlying their grievances or complaints referred to adjudication. Mediation is a voluntary and confidential process that provides parties with the opportunity to find their own solutions to the issues in dispute. The process is facilitated by an impartial third party who has no decision-making powers, and its outcome creates no precedents.

In 2017-2018, mediators from the Board's Mediation and Dispute Resolution Services conducted three mediations with several employers under the *PESRA*. The parties reached a settlement in one of these cases, involving a termination grievance. This mediation also resulted in the withdrawal of four grievances that had not yet been referred to adjudication at the Board.

Reasons for decision issued

In 2017-2018, the FPSLREB issued two formal decisions and one arbitral award under the *PESRA*.

Proposed and recent legislative changes

The following table provides an overview of proposed or recent legislative changes that impact or may impact the mandate and work of the FPSLREB under the *PESRA*. The legislative changes were moving through Parliament or the Senate or had been passed into law as of March 31, 2018.



Legislation	General Summary	Status as of March 31, 2018
<p>Bill C-4: <i>An Act to amend the Canada Labour Code, the Parliamentary Employment and Staff Relations Act, the Public Service Labour Relations Act and the Income Tax Act</i></p> <p>Tabled in the House of Commons on January 28, 2016</p>	<p>Bill C-4 repeals and replaces legislative changes made under Bill C-525, the <i>Employees' Voting Rights Act</i>, which came into force on June 16, 2015.</p> <p>Bill C-525 affected how unions were certified and decertified by the FPSLRB under the <i>PESRA</i> and the <i>PSLRA</i>, including requiring the use of secret ballots on all votes pertaining to labour relations certification issues.</p> <p>Bill C-4 eliminates mandatory secret ballot representation votes and restores the former card check model, which requires evidence of majority support from employees and gives the FPSLRB the discretion to order a representation vote.</p>	<p>The Bill came into force on June 22, 2017.</p>

Legislation	General Summary	Status as of March 31, 2018
<p>Bill C-44: <i>An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures</i></p> <p>Tabled in the House of Commons on April 11, 2017</p>	<p>Bill C-44 makes the Parliamentary Budget Officer an independent officer of Parliament, separate from the Library of Parliament.</p> <p>Consequential and transitional amendments are made to extend the application of the <i>PESRA</i> to the new office of the Parliamentary Budget Officer, to ensure that no change in status of employment occurs and so that existing collective agreements or arbitral awards remain in force.</p> <p>The Bill also aims to repeal s. 88(b) of the <i>PESRA</i>, which is found in Part III of that Act, under Occupational Safety and Health. Note that s. 88(b) never came into force. The Bill extends the Board's mandate in relation to the <i>Canada Labour Code</i> and parliamentary employees.</p>	<p>The Bill received Royal Assent on June 22, 2017.</p> <p>Only the provisions relating to the Parliamentary Budget Officer have come into force.</p> <p>The provision relating to s. 88(b) of the <i>PESRA</i> and other provisions will come into force on a day to be fixed by order of the Governor in Council.</p>
<p>Bill C-34: <i>An Act to amend the Public Service Labour Relations Act and other Acts</i></p> <p>Tabled in the House of Commons on November 28, 2016</p>	<p>The Bill restores the public service labour relations regime that existed before the coming into force of Bill C-4 - <i>Economic Action Plan 2013 Act, No. 2</i>, specifically with respect to essential services and the resolution of collective bargaining disputes.</p>	<p>The Bill received first reading on November 28, 2016.*</p> <p>*The Bill was largely incorporated into Bill C-62 - <i>An Act to amend the Federal Public Sector Labour Relations Act and other Acts</i>.</p>



Legislation	General Summary	Status as of March 31, 2018
<p>Bill C-65: <i>An Act to amend the Canada Labour Code (harassment and violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1</i></p> <p>Tabled in the House of Commons on November 7, 2017</p>	<p>Bill C-65 proposes to bring protection from workplace harassment and violence into Part II of the Canada Labour Code's (CLC) occupational health and safety regime.</p> <p>Bill C-65 amends Part II of the CLC to strengthen its framework for the prevention of harassment and violence, including sexual harassment and violence, in the workplace. The FPSLREB will retain its current mandate for reprisal complaints from federal public service employees, and the Bill will expand the FPSLREB's mandate to include health and safety matters under Part II of the CLC for employees within the parliamentary context.</p> <p>There is currently no legislative recourse mechanism for health and safety matters under Part II of the CLC for parliamentary employees covered by the PESRA. Once the new Part III comes into force, the FPSLREB will acquire a new mandate for parliamentary employees, including most political staffers, for (1) complaints of reprisals, (2) appeals of ministerial "work refusal" decisions with respect to "absence of danger", and (3) appeals of ministerial directions on contravention complaints. All these recourse mechanisms could be used by employees alleging violence or harassment in the workplace, as well as any other matters that relate to the prevention of any accidents, illnesses, or injuries, including those that are psychological.</p>	<p>On January 29, 2018, the Bill received second reading and was referred to the Standing Committee on Human Resources, Skills, Social Development and the Status of Persons with Disabilities for further study.</p>

For more information on all proposed legislative changes affecting the Board's mandate, please refer to the FPSLREB Annual Report, which is posted on its website at: http://fpslreb-crtespf.gc.ca/about/reports_e.asp.

Tables

TABLE 1: Bargaining Units and Bargaining Agents under the *Parliamentary Employment and Staff Relations Act* as of March 31, 2018

Bargaining agent	Number of bargaining units	Number of public service employees
House of Commons		
Professional Institute of the Public Service of Canada	1	96
Public Service Alliance of Canada	2	452
UNIFOR, Local 87-M	1	96
TOTAL	4	644
Library of Parliament		
Canadian Association of Professional Employees	1	137
Public Service Alliance of Canada	2	137
TOTAL	3	274
Office of the Conflict of Interest and Ethics Commissioner		
No bargaining agent	0	50
Office of the Senate Ethics Officer		
No bargaining agent	0	4
*** Office of the Parliamentary Budget Officer		
Canadian Association of Professional Employees	1	11
**** Parliamentary Protective Service		
House of Commons Security Services Employees Association	-	-
Senate Protective Service Employees Association	-	-
Public Service Alliance of Canada	-	-
TOTAL	1	65
Senate of Canada		
Professional Institute of the Public Service of Canada	1	29
Public Service Alliance of Canada	1	87
TOTAL	2	116
GRAND TOTAL	10	1099



TABLE 2: Number of Bargaining Units and Public Service Employees by Bargaining Agent as of March 31, 2018

Certified bargaining agent	Number of bargaining units	Number of public service employees in non-excluded positions
Canadian Association of Professional Employees (CAPE)	2	126
House of Commons Security Services Employees Association (HCSSEA)	1	260
Professional Institute of the Public Service of Canada (PIPSC)	2	116
Public Service Alliance of Canada (PSAC)	6	668
Senate Protective Service Employees Association (SPSEA)	1	127
UNIFOR, Local 87-M	1	*****75
TOTAL	13	1372

* The figures in Table 1 were provided by the employers and those in Table 2 by the bargaining agents.

** The total in Table 2 does not match the total indicated in Table 1 because the employees in Table 1 generally include those both represented and not represented by a bargaining agent.

*** The bargaining agent for the period of April 1, 2017, to September 20, 2017, was the Canadian Association of Professional Employees. For the period of September 21, 2017, to March 31, 2018, no bargaining agent was certified to represent the employees.

**** At the request of the Parliamentary Protective Service, the number of employees is not indicated for security-related reasons.

***** The number shown is as of March 31, 2017.

TABLE 3: Grievances, Complaints, and Applications Received, April 1, 2014, to March 31, 2018

Fiscal Year	Grievances				Complaints	Applications		Total
	Interpretation or application Para. 63(1)(a)	Discipline - suspension, financial penalty, and termination Paras. 63(1) (b) & (c)	¹ Demotion, denial of appointment, and classification Paras. 63(1) (d), (e), & (f)	Policy ss. 70(1)	Complaints ss.13(1)	Request for arbitration s. 50	Other sections of the PSEA	
2014-2015	1	1	0	0	0	1	0	3
2015-2016	12	8	1	2	0	5	4	32
2016-2017	8	2	9	2	2	1	1	25
2017-2018	15	7	1	5	2	0	4	34

TABLE 4: Grievances and Board Cases Carried Forward, Received, and Completed, April 1, 2014, to March 31, 2018

Fiscal year	Carried forward from previous years	Received	Total new	Closed	Carried forward to next year
2014-2015	16	3	19	7	12
2015-2016	12	32	44	8	36
2016-2017	36	25	61	11	50
2017-2018	50	34	84	18	66

¹ Will be heard and determined by an adjudicator selected by the parties who is not a member of the FPSLREB.