



Christine Davies
Direct Line: 416.979.4055
Fax: 416.591.7333
cdavies@goldblattpartners.com
Our File No. 21-1918

January 14, 2022

Via E-mail (Glloyd@collegeemployercouncil.ca)
Mr. Graham Lloyd
CEO
College Employer Council
130 Queens Quay East, Suite 606
Toronto, Ontario
M5A 0P6

Via E-mail (skennedy@niagaracollege.ca)
Mr. Sean Kennedy
President
Niagara College
135 Taylor Road, S.S. # 4
Niagara-on-the-Lake, Ontario
L0S 1J0

Via E-mail (chris.whitaker@humber.ca)
Mr. Chris Whitaker
President
Humber College
205 Humber College Blvd.
Toronto, Ontario
M9W 5L7

Via E-mail (pdevlin@fanshawec.ca)
Mr. Peter J. Devlin
President
Fanshawe College
1001 Fanshawe College Blvd.
London, Ontario
N5Y 5R6

Via E-mail (gvollebregt@sl.on.ca)
Mr. Glenn Vollebregt
St. Lawrence College
100 Portsmouth Avenue
Kingston, Ontario
K7L 5A6

Dear Sirs:

**Re: OPSEU v. College Employer Council, Niagara College, Humber College,
Fanshawe College and St. Lawrence College
Application under Section 62 of the *Colleges Collective Bargaining Act, 2008***

We are counsel to the Applicant, OPSEU, with respect to the above-noted matter.

Please find attached:

1. Form C-25 Notice to Responding Party;

2. Form A-51 Application under Section 62 of the *Colleges Collective Bargaining Act, 2008*, which are being served upon you in accordance with the Board's Rules.

Sincerely,



Christine Davies
CD:sw/cope 343
Attachments

c.c. Mr. Eric O'Brien

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Christine Davies
Direct Line: 416.979.4055
Fax: 416.591.7333
cdavies@goldblattpartners.com
Our File No. 21-1918

January 14, 2022

Via – E-File

Ms. Catherine Gilbert
Registrar
Ontario Labour Relations Board
505 University Avenue, 2nd Floor
Toronto, Ontario
M5G 2P1

Dear Ms. Gilbert:

**Re: OPSEU v. College Employer Council, Niagara College, Humber College,
Fanshawe College and St. Lawrence College
Application under Section 62 of the Colleges Collective Bargaining Act, 2008**

We are counsel to the Applicant, OPSEU, with respect to the above-noted matter.

Please find attached an Application under Section 62 of the *Colleges Collective Bargaining Act, 2008* (Form A-51) which we request that the Board process in accordance with its usual procedures. Also enclosed is a Form A-139 Declaration, which confirms that the appropriate documents were sent to the Responding Parties via email.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Chr Davies'.

Christine Davies
CD:sw/cope 343
Attachments

c.c. Mr. Eric O'Brien (*via E-mail*)

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ONTARIO LABOUR RELATIONS BOARD

NOTICE TO RESPONDING PARTY AND/OR AFFECTED PARTY OF APPLICATION UNDER SECTION 62 OF THE CCBA OR 56.1 OF THE FPPA

Form C-25

Colleges Collective Bargaining Act, 2008
Fire Protection and Prevention Act, 1997

Between:

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

Applicant(s)

- and -

COLLEGE EMPLOYER COUNCIL, NIAGARA COLLEGE, HUMBER COLLEGE, FANSHAWE COLLEGE
and ST. LAWRENCE COLLEGE

Responding Party(ies)

- All forms, Notices, Information Bulletins, the Filing Guide and the Rules of Procedure may be obtained from the Ontario Labour Relations Board's website at (<http://www.olrb.gov.on.ca>) or the Board's offices, 505 University Ave., 2nd floor, Toronto, Ontario (Tel. 416-326-7500).
- Periods of time referred to in this Notice, other Board forms and Notices and the Board's Rules of Procedure do not include weekends, statutory holidays or any other day that the Board is closed.

1. The Applicant has initiated an application with the Ontario Labour Relations Board ("the Board") alleging that the Responding Party has contravened either the *Colleges Collective Bargaining Act, 2008* or the *Fire Protection and Prevention Act, 1997* ("the application"). A copy of the application is enclosed.
2. This notice is being sent to you because you are a Responding Party to the application or because you have been identified as a person who may be affected by the application.
3. **An application before the Labour Relations Board is a legal proceeding and may affect your legal rights and obligations. You may wish to seek legal advice immediately.**
4. You should carefully read the Board's Rules of Procedure, which describe how a response/intervention must be delivered and filed with the Board, what information must be provided and the time limits that apply.
5. **IF YOU ARE THE RESPONDING PARTY:**
 - (a) Your response (**Form A-52** available at <http://www.olrb.gov.on.ca/> or at the Board's offices) must be filed with the Board no later than **10 days** after the application was delivered to you.
 - (b) **Before** filing your response with the Board, you must deliver a copy of it (including all documents you are filing with it) to each Applicant, Responding Party and Affected Party named in Part A of the application and to each Affected Party named in Part A of a response/intervention filed by another party. If you are naming any additional

Affected Party in your response, you must provide them with a copy of the application (including all documents filed with it), your response (including all documents you are filing with it) and this notice.

Your response may be delivered to the other parties in accordance with Rule 6.4 of the Board's Rules of Procedure.

(c) You may **then file your response with the Board** by any method, except fax, e-mail or registered mail.

6. **IF YOU HAVE BEEN NAMED AS A PARTY WHO MAY BE AFFECTED BY THE APPLICATION**, and **if you choose** to participate in this proceeding:

(a) Your intervention (**Form A-52** available at <http://www.olrb.gov.on.ca/> or at the Board's offices) must be filed with the Board no later than **10 days** after the application was delivered to you.

(b) **Before** filing your intervention with the Board, you must deliver a copy of it (including all documents you are filing with it) to each Applicant, Responding Party and Affected Party named in Part A of the application and to each Affected Party named in Part A of a response/intervention filed by another party. If you are naming any additional Affected Party in your intervention, you must provide them with a copy of the application (including all documents filed with it), your intervention (including all documents you are filing with it) and this notice.

Your intervention may be delivered to the other parties in accordance with Rule 6.4 of the Board's Rules of Procedure.

(c) You may **then file your intervention with the Board** by any method, except fax, e-mail or registered mail.

7. **If you do not file your response/intervention and other required documentation in the way required by the Board's Rules of Procedure, the Board may not process your response/intervention and documents, and may decide the application without further notice to you. Furthermore, you may be deemed to have accepted all the facts stated in the application.**

8. Once the application is filed, the Board sends a Confirmation of Filing to all the parties with a Board file number and information about the appointment of a Mediator.

9. If you do not receive a Confirmation of Filing from the Board within seven days after you receive the application, you may wish to contact the Board.

Dated:

Catherine Gilbert

The Registrar
Ontario Labour Relations Board

NOTE: All communications should be addressed to:

The Registrar
Ontario Labour Relations Board
505 University Avenue, 2nd Floor
Toronto, Ontario M5G 2P1
Tel (416) 326-7500
Fax (416) 326-7531

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.

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.



ONTARIO LABOUR RELATIONS BOARD

APPLICATION UNDER SECTION 62 OF THE CCBA OR 56.1 OF THE FPPA

Colleges Collective Bargaining Act, 2008

Fire Protection and Prevention Act, 1997

Form A-51

Fields marked with an asterisk (*) are mandatory.

Between: *

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

Applicant(s)

- and -

COLLEGE EMPLOYER COUNCIL, NIAGARA COLLEGE, HUMBER COLLEGE, FANSHAWE COLLEGE
and ST. LAWRENCE COLLEGE

Responding Party(ies)

- Review the Filing Guide and the Board's Rules of Procedure on acceptable methods of delivery and filing **before** completing this form to avoid any delay in processing.
- All forms, Notices, Information Bulletins, the Filing Guide and the Rules of Procedure may be obtained from the Board's website (<http://www.olrb.gov.on.ca>).
- To print a paper copy of this form, use **only** the "Print" buttons located within the form.
- Save a copy of your completed form and any attachments as the Board will not return them to you. To save the form at any time, use the "Save" buttons located within the form.
- If there is insufficient space on the form, attach additional pages clearly identifying the relevant section of the form. For e-filing, you may attach files by selecting the "Attach documents electronically" option.

Part A Contact Information

Instructions

- Provide the contact information for each Applicant, Responding Party and Affected Party below. If you wish to add additional parties, use the "Add" button or attach a separate page if completing the form by hand.
- If a party is an organization, provide the name and contact information of an individual who will be able to respond on behalf of that organization. When adding multiple individuals at the same organization, "Add" an additional contact section, repeat the organization name and provide that individual's contact information (e.g. name, email address, phone number).

1 (a). Applicant**Applicant 1**Type * Organization Individual

Organization Name *

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

First Name Eric	Last Name O'Brien	Position/Title General Counsel
--------------------	----------------------	-----------------------------------

Full Address (Number, Street, Unit/Apartment, Building Name) 100 Lesmill Road	Other Address Details (e.g. PO Box, R.R. #, c/o)
--	--

City/Town Toronto	Province/State Ontario	Country Canada	Postal/Zip Code M3B 3P8
----------------------	---------------------------	-------------------	----------------------------

Telephone Number 416-443-8888	Ext.	Fax Number 416-448-7464	Email Address eobrien@opseu.org
----------------------------------	------	----------------------------	------------------------------------

Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

1 (b). Representative/Contact Person for the Applicant**Contact 1**Contact Person for * All Parties above Party No.(s) _____Indicate if this person is a Lawyer Paralegal

Organization Name

Goldblatt Partners LLP

First Name Christine	Last Name * Davies	Position/Title Partner
-------------------------	-----------------------	---------------------------

Full Address (Number, Street, Unit/Apartment, Building Name) 20 Dundas Street West, Suite 1039	Other Address Details (e.g. PO Box, R.R. #, c/o)
---	--

City/Town Toronto	Province/State Ontario	Country Canada	Postal/Zip Code M5G 2C2
----------------------	---------------------------	-------------------	----------------------------

Telephone Number 416-979-4055	Ext.	Fax Number 416-526-1088	Email Address cdavies@goldblattpartners.com
----------------------------------	------	----------------------------	--

Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

Sharon Wilson, Assistant to Christine Davies

swilson@goldblattpartners.com

2 (a). Responding Party**Responding Party 1**Type * Organization Individual

Organization Name *

College Employer Council

First Name Graham	Last Name Lloyd	Position/Title CEO
----------------------	--------------------	-----------------------

Full Address (Number, Street, Unit/Apartment, Building Name) 130 Queens Quay East, Suite 606	Other Address Details (e.g. PO Box, R.R. #, c/o)
---	--

City/Town Toronto	Province/State Ontario	Country Canada	Postal/Zip Code M5A 0P6
----------------------	---------------------------	-------------------	----------------------------

Telephone Number 647-258-7701	Ext.	Fax Number 647-258-7719	Email Address GIlloyd@collegeemployercouncil.ca
----------------------------------	------	----------------------------	--

Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

Responding Party 2

Type * Organization Individual

Organization Name *

Niagara College

First Name Sean	Last Name Kennedy	Position/Title President
--------------------	----------------------	-----------------------------

Full Address (Number, Street, Unit/Apartment, Building Name) 135 Taylor Road	Other Address Details (e.g. PO Box, R.R. #, c/o) S.S. #4
---	---

City/Town Niagara-on-the-Lake	Province/State Ontario	Country Canada	Postal/Zip Code L0S 1J0
----------------------------------	---------------------------	-------------------	----------------------------

Telephone Number 905-735-2211	Ext. 7688	Fax Number	Email Address skennedy@niagaracollege.ca
----------------------------------	--------------	------------	---

Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

Responding Party 3

Type * Organization Individual

Organization Name *

Humber College

First Name Chris	Last Name Whitaker	Position/Title President
---------------------	-----------------------	-----------------------------

Full Address (Number, Street, Unit/Apartment, Building Name) 205 Humber College Blvd.	Other Address Details (e.g. PO Box, R.R. #, c/o)
--	--

City/Town Toronto	Province/State Ontario	Country Canada	Postal/Zip Code M9W 5L7
----------------------	---------------------------	-------------------	----------------------------

Telephone Number 416-675-3111	Ext.	Fax Number	Email Address chris.whitaker@humber.ca
----------------------------------	------	------------	---

Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

Responding Party 4

Type * Organization Individual

Organization Name *

Fanshawe College

First Name Peter J. Devlin	Last Name	Position/Title President
-------------------------------	-----------	-----------------------------

Full Address (Number, Street, Unit/Apartment, Building Name) 1001 Fanshawe College Blvd.	Other Address Details (e.g. PO Box, R.R. #, c/o)
---	--

City/Town London	Province/State Ontario	Country Canada	Postal/Zip Code N5Y 5R6
---------------------	---------------------------	-------------------	----------------------------

Telephone Number 519-452-4430	Ext.	Fax Number	Email Address pdevlin@fanshawec.ca
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Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

Responding Party 5

Type * Organization Individual

Organization Name *
St. Lawrence College

First Name Glenn	Last Name Vollebregt	Position/Title President & CEO
---------------------	-------------------------	-----------------------------------

Full Address (Number, Street, Unit/Apartment, Building Name) 100 Portsmouth Avenue	Other Address Details (e.g. PO Box, R.R. #, c/o)
---	--

City/Town Kingston	Province/State Ontario	Country Canada	Postal/Zip Code K7L 5A6
-----------------------	---------------------------	-------------------	----------------------------

Telephone Number 613-544-5400	Ext.	Fax Number	Email Address gvollebregt@sl.on.ca
----------------------------------	------	------------	---------------------------------------

Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

2 (b). Representative/Contact Person for the Responding Party, if known

Contact 1

3 (a). Affected Party

Contact information for any person, trade union, employer or employer's organization which may be affected by the application must be provided below.

3 (b). Representative/Contact Person for the Affected Party, if known

3 (c). The person, trade union, employer or employers' organization named above is affected by the application for the following reason(s):

Part B Material Facts and Relief Sought

4. The Applicant states that the Responding Party has violated section(s) * 53 _____ of the *:

- Colleges Collective Bargaining Act, 2008*
(You must claim that some section **other than section 62** has been violated.)
- Fire Protection and Prevention Act, 1997*
(You must claim that some section **other than section 56.1** has been violated.)

5. The Applicant requests the following relief:

Describe in detail what you wish the Board to order as a result of this application. If you require more space, attach a separate document.

See Schedule "A" attached.

6. In support of its request, the Applicant relies on the following material facts:

Include **all** of the material facts on which you rely including the circumstances, what happened, where and when it happened, and the names of any persons said to have acted improperly. You will not be allowed to present evidence or make any representations about any material fact that was not set out in the application and filed promptly in the way required by the Board's Rules of Procedure, except with the permission of the Board. If you require more space, attach a separate document.

See Schedule "B" attached.

7. Other relevant statements:

See Schedule "B" attached.

8. Attached documents:

Provide a list of the documents you are filing together with this form as instructed below.

Name your documents/attachments so that they are easily identifiable.

If you are e-filing this form, select the "Attach documents electronically" option below and attach each document using the "Add File" button.

If you are filing in a manner other than e-filing, provide the numbered list of documents in the box below.

Documents

IMPORTANT NOTES

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FRENCH OR ENGLISH

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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.

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.

Documents to be Delivered

Before you file your application with the Board, you must deliver the following documents to each Responding Party and Affected Party named in Part A of this application:

- A completed copy of this Application under Section 62 of the *CCBA* or 56.1 of the *FPPA* (Form A-51), **including all documents you are filing with this form**; and
- A Notice to Responding Party and/or Affected Party of Application under Section 62 of the *CCBA* or 56.1 of the *FPPA* (Form C-25) **with the names of the parties and the date inserted**.

Note to each Responding Party and Affected Party: The documents listed above should have been delivered to you by the Applicant. The applicable response/intervention form is **Form A-52**.

Once the above-listed documents have been delivered to the other parties, you must complete the following Certificate of Delivery before filing the completed form and attachments with the Board.

<input checked="" type="checkbox"/> I have reviewed this form to confirm it is complete *	Date (yyyy/mm/dd) * 2022/01/14
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Certificate of Delivery

I, Sharon Wilson, Legal Assistant,
Name * Title *

certify that the documents identified above were delivered to each of the parties as set out below:

Note: You must complete delivery information for each party separately.

Delivered To

Name of organization (if applicable) and name and title of person to whom the documents were delivered *

College Employer Council - Attn: Graham Lloyd, CEO

Address or fax number to which the documents were delivered *

glloyd@collegeemployercouncil.ca

Method of delivery *

Hand Delivered Courier Fax Regular Mail Other

Other Details *

Please provide details as to whom, when and how the documents were delivered.

Please see Form A-139 attached

Delivered To

Name of organization (if applicable) and name and title of person to whom the documents were delivered *

Niagara College - Attn: Sean Kennedy, President

Address or fax number to which the documents were delivered *

skennedy@niagaracollege.ca

Method of delivery *

Hand Delivered Courier Fax Regular Mail Other

Other Details *

Please provide details as to whom, when and how the documents were delivered.

Please see Form A-139 attached

Delivered To

Name of organization (if applicable) and name and title of person to whom the documents were delivered *

Humber College - Attn: Chris Whitaker, President

Address or fax number to which the documents were delivered *

chris.whitaker@humber.ca

Method of delivery *

Hand Delivered Courier Fax Regular Mail Other

Other Details *

Please provide details as to whom, when and how the documents were delivered.

Please see Form A-139 attached

Delivered To

Name of organization (if applicable) and name and title of person to whom the documents were delivered *

Fanshawe College - Attn: Peter J. Devlin, President

Address or fax number to which the documents were delivered *

pdevlin@fanshawec.ca

Method of delivery *

Hand Delivered Courier Fax Regular Mail Other

Other Details *

Please provide details as to whom, when and how the documents were delivered.

Please see Form A-139 attached

Delivered To

Name of organization (if applicable) and name and title of person to whom the documents were delivered *

St. Lawrence College - Attn: Glenn Vollebregt, President & CEO

Address or fax number to which the documents were delivered *

gvollebregt@sl.on.ca

Method of delivery *

Hand Delivered Courier Fax Regular Mail Other

Other Details *

Please provide details as to whom, when and how the documents were delivered.

Please see Form A-139 attached

File with the Board

- File the completed form and any attachments using a method permitted by the Board's Rules of Procedure.
- Save and Print a copy of your completed form and all attachments as the Board will not return them to you.
- To e-file, click the "Submit" button below. You will receive a confirmation email once the form has been successfully submitted.
- If you choose not to e-file, print this form by clicking on the "Print" button below and then file with the Board together with any attachments.

For E-Filing only

You must provide a valid email address in order to file this form electronically so that a confirmation email may be sent to you. If you do not have a valid email address, file a paper copy of this form using an alternative method permitted by the Board's Rules of Procedure.

Submitted By:

First Name *	Last Name *
Sharon	Wilson
Email Address *	Confirm Email Address *
swilson@goldblattpartners.com	swilson@goldblattpartners.com

Schedule "A"

The Applicant requests the following relief:

1. A declaration that the Responding Parties have violated the *Colleges Collective Bargaining Act, 2008*.
2. An order requiring the Responding Parties to cease and desist from violating the *Act*.
3. An order requiring the Responding Parties to post notices of their violation of the *Act* on its website, in the workplace, and to mail the notices, at their own expense, to all employees in the bargaining unit.
4. An order directing the Responding Parties to inform all employees in the bargaining unit that they are permitted to use the email signatures referred to in Schedule B.
5. An order directing the Responding Parties to inform all employees in the bargaining unit that they are permitted to use the Zoom background referred to in Schedule B.
6. An order directing the Responding Parties to inform all employees in the bargaining unit that they are permitted to refer to the ongoing collective bargaining in communications using learning management systems referred to in Schedule B.
7. An order directing that any discipline issued to employees as a result of using the email signatures is null and void.
8. Any other relief that may be appropriate in the circumstances.

Schedule “B”

Overview

1. Ontario Public Service Employees Union (“OPSEU”) is a trade union representing, among others, the full-time and partial-load academic staff of Ontario’s twenty-four (24) public colleges (the “Colleges”) pursuant to the *Colleges Collective Bargaining Act, 2008* (“CCBA”). The bargaining unit includes all full-time and partial-load professors, instructors, counsellors, and librarians employed by the Colleges (approximately 16,000 members). The Colleges of Applied Arts and Technology – Academic bargaining team (the “CAAT-A bargaining team”) bargains on behalf of OPSEU with the Responding Party, the College Employer Council (“CEC” or the “Council”), which has exclusive authority for negotiating on behalf of the twenty-four (24) public Colleges pursuant to the CCBA. While collective bargaining takes place on a central basis, each of the Colleges has its own OPSEU Local that represents the members employed by that College.
2. This application concerns interference by the CEC, and some of the Colleges it represents (the “Respondent Colleges”) with OPSEU and its members in the course of negotiations for a renewal collective agreement. The parties have been in a legal strike/lockout position since December 18, 2021. At that time, OPSEU encouraged its members to support the bargaining campaign through a digital campaign which included a suggested email signature, Zoom background, and text for social media posts as well as learning management platforms used by the Colleges. OPSEU’s digital campaign was intended to engage and inform its members about the bargaining process, as well as encourage support for the Union’s positions among the students and general public. The CEC’s website publicly discourages OPSEU’s members from engaging in the digital campaign and takes the position that such actions violate College policies, conveying an implicit threat of discipline. The Respondent Colleges have similarly taken the position in communications to the Union or individual members that they should not engage in the Union’s digital campaign and that it violates their policies, again

conveying an implicit threat of discipline. The Responding Parties have also taken the position that the Union's members should not communicate with students about the bargaining, while they continue to communicate with the students.

3. In so doing, the Responding Parties have interfered with the administration of a trade union and the rights and activities of OPSEU and its members which are lawful and protected under the *CCBA*. In particular, the Responding Parties have blatantly interfered with the rights of OPSEU's members to choose to demonstrate support for their bargaining agent's position during contract negotiations and have attempted to deter support for positions of the Union to grant to themselves an unfair advantage in bargaining. Finally, the Responding Party has interfered with the Union's right to seek support from its members, and to engage in strike activity that is free from undue influence and threats of reprisal.

Facts

4. OPSEU and the CEC are parties to a collective agreement that expired September 30, 2021. The parties commenced bargaining towards a renewal collective agreement in July 2021. Following unsuccessful efforts at mediation, the CEC sought appointment of a conciliation officer on November 1, 2021. On November 2, the CEC commenced a complaint against OPSEU concerning the conduct of the bargaining (OLRB No. 1399-21-R). The parties continued to negotiate and exchange proposals after the filing of CEC's complaint.
5. Both the CEC and the Union maintain websites which address the status of the bargaining and provide information for students and the general public. The CEC's website is www.collegeemployercouncil.ca. The Union's website is www.collegefaculty.org.
6. The parties were in a strike/lockout position as of December 12, 2021. The CEC imposed terms and conditions on the bargaining unit on December 13, 2021 (Tab 1). OPSEU provided a strike notice on December 12, 2021 and was in a legal strike position as of December 18, 2021.

7. OPSEU's strike action consists of a "work to rule" campaign involving several planned stages, described in its memo "Work to Rule Phase 1 for Faculty" dated December 16, 2021 (the "Work to Rule Memo") and accompanying FAQ (Tabs 2-3). Stage 1 of the work to rule campaign commenced December 18, 2021.
8. In connection with its lawful strike activity, and to increase engagement and support with OPSEU's bargaining objectives, in the Work to Rule Memo, the Union encouraged its members to adopt the following email signature:

The College Employer Council and college management have chosen to impose terms and conditions of work on college faculty, rather than agreeing to extend existing terms while the faculty and employer bargaining teams negotiate a Collective Agreement. College faculty have begun a work-to-rule campaign, in protest. For more information, click here [insert collegefaculty.org]

(the "email signature")

9. OPSEU also encouraged its members to share information about the bargaining on their learning management system ("LMS") and social media:

The College Employer Council and college management have chosen to impose terms and conditions of work on college faculty, rather than agreeing to extend existing terms while the faculty and employer bargaining teams negotiate a Collective Agreement. College faculty have begun a work-to-rule campaign in protest. For more information, click here [insert collegefaculty.org].

College faculty are fighting for the following, for students and the college system. The Colleges are refusing:

- More time for student evaluation
- Preparation time for online learning
- Partial-load job security and seniority improvements
- No contracting out of counsellor and other faculty work
- Faculty consent prior to the sale or reuse of faculty course materials
- Jointly-led committees and round tables able to implement

changes around workload, equity, and Indigenization, decolonization, and Truth and Reconciliation

If you would like to send a letter expressing your concerns to the President of the College and the CEO of the College Employer Council, there is a link to a sample letter at collegefaculty.org.

(the “LMS message”)

10. OPSEU also encouraged faculty to download and use their “Bargaining for Better” Zoom background for all online meetings with college administrators and students. A copy of the Zoom background is at Tab 3.
11. On January 5, 2022, at a province-wide meeting, OPSEU delivered a PowerPoint presentation to its members addressing the bargaining (Tab 4). On or about January 6, 2022, Local Presidents also forwarded a copy of the presentation to their members. In the PowerPoint, OPSEU again encouraged its members to adopt the email signature. OPSEU also encouraged members to build pressure on the CEC and Colleges by sharing information about the bargaining campaign with students, by talking to their colleagues, and by sharing information on social media.
12. OPSEU’s position is that the use of an email signature or Zoom background to indicate a member’s support for the union’s bargaining position is analogous to wearing a pro-union button in the workplace. In an era where many employees continue to work from home due to the pandemic, the adoption of an email signature or Zoom background is a practical means for members to express solidarity and for the union to encourage engagement with its members in the bargaining process. Similarly, and especially in the circumstances of the pandemic, OPSEU’s member engagement and advocacy concerning its bargaining campaign take place through digital means, such as through sharing information about the status of the bargaining on the LMS or through social media, where such information will be visible to students (in the case of the LMS) or the broader public (in the case of social media).
13. The union’s digital member engagement and advocacy campaign, including but not limited to the email signature campaign, constitutes protected union activity.

There is no compelling business or other reason why employees cannot adopt the email signature. Similarly, there is no compelling business or other reason why employees cannot adopt the Zoom background.

14. Email signatures and information posted through LMS are the only practical ways in which members can share information about the status of bargaining with students outside of a classroom setting.
15. Moreover, the parties in the academic context of the post-secondary environment, have long recognized the importance of academic freedom, which is reflected in the adoption of Article 13 of the parties' collective agreement [Tab 5]. Individual Colleges also have policies recognizing the applicability of academic freedom in the post-secondary context.

Actions by CEC

16. The CEC has taken a public position that OPSEU's members cannot engage in the union's campaign by changing their email signature. On a FAQ posted on its website (Tab 6), the CEC states,

“CAN ACADEMIC EMPLOYEES CHANGE THEIR EMAIL SIGNATURE?

No, your e-mail signature represents the College and cannot be misused for non-College purposes.

For further clarification, please review your College 'acceptable use policy' and brand guidelines.”

17. By informing employees that the use of the email signature is not permitted and that such activity constitutes “misuse”, the CEC has required the removal of the email signatures by employees and implicitly threatened the union's members with discipline if they do not comply. In so doing, the CEC has sought to interfere with the administration of a trade union and the rights and activities of OPSEU and its members which are lawful and protected under the CCBA. In particular, the CEC has blatantly interfered with the rights of OPSEU's members to choose to

demonstrate support for their bargaining agent's position during contract negotiations. The CEC has attempted to deter support for positions the union will take in strike activity and/or in response to actions by the CEC (including its decision to impose terms and conditions and any future actions by CEC, including but not limited to a potential final offer selection vote), to grant itself an unfair advantage over the union in achieving its collective bargaining objectives. Finally, the CEC has interfered with the union's right to seek support from its members, and to engage in strike activity that is free from undue influence and threats of reprisal.

18. CEC has also taken the position, in a letter dated January 13, 2022 (Tab 7), that "Colleges have every right to communicate factual information to all of their employees on the ongoing labour dispute... Colleges will continue to keep the College community fully informed". In the same letter, the CEC stated "We ask that academic employees not involve students in bargaining and refrain from inappropriately responding to students with unhelpful and anti-college messaging". The instruction from CEC that members should not communicate with the students regarding the status of bargaining (while maintaining its own right to do so by keeping the "College community" informed), interferes with members' rights to support the Union's bargaining campaign. If CEC's communications to students are permitted, there can be no basis to find that that countervailing messages from the Union and its members are somehow inappropriate.
19. The CEC also interfered with the Union in this letter by instructing members to oppose its positions and strategy in bargaining: "We ask that you instruct the CAAT-A team to stop threatening escalating action, think about the impacts of their actions on students, and rejoin us at the bargaining table once they moderate their demands." By purporting to tell members to oppose their bargaining team's strategy, the CEC has interfered with the administration of the union.
20. While CEC has taken the position that the members should not share information with students, including by email, CEC has itself sent bargaining updates to both

staff as well as students. For example, the CEC sent a copy of the January 13, 2022 letter to the members as well as students by email on January 13, 2022 at 3:31 pm. The CEC also sent a “FAQ” document to students about the bargaining on or about January 10, 2022.

Actions by Colleges

21. In addition to the actions taken by the CEC, some Colleges have also similarly instructed OPSEU’s members not to engage in its digital campaign by changing their email signatures. The particulars of the actions of these Colleges are set out below. OPSEU reserves the right to amend its application to address further violations of the CCBA concerning its digital campaign that may come to its attention.

Niagara College

22. On January 11, 2022, the President of Niagara College, Sean Kennedy, emailed Local President Ravi Ramkissoonsingh as follows:

“I also want to confirm that the message you received outlining our expectations around bargaining discussions during class time and the use of college systems – Blackboard, email, etc. -- for messaging about bargaining or labour disruptions is correct. Our students expect and deserve the opportunity to successfully complete their program without disruption, and our expectation is that class time and college communication channels will not be used to draw students into the bargaining process.”

23. The President’s email, and the email of Ramkissoonsingh to which he was responding, are attached at Tab **8**. As set out in greater detail below, the College’s position restricting members from communicating with students, both through the Union’s digital campaign and in class (i.e. in response to a question from a student) interferes with the rights of the Union and its members.
24. The earlier correspondence from December 2021 is attached at Tab **9**. In their December 2021 email exchange, Robert Burwash (Director of HR) took the position that members were not permitted to address the bargaining during class,

even in response to a student question, nor were they permitted to use their email accounts or LMS to “actively or passively to communicate messages that are related to matters associated with the collective bargaining”. That is, Mr. Burwash purported to restrict not only the use of the Union’s suggested email signature, but any communications via email at all on the subject of the bargaining or labour dispute. Mr. Burwash suggested this would not apply to messages from the Union to its members, but there was no such exemption for messages between members. Presumably the College intended that this ban would preclude members from expressing themselves to each other using their email accounts. This is a blatant interference with the right of members to participate in their Union and its bargaining campaign by engaging in discussions about the status of the bargaining and the issues.

25. Copies of Niagara College’s policies respecting Academic Freedom, Freedom of Speech, Information Technology Acceptable Use & Security Awareness, and its Code of Conduct, are attached collectively at Tab **10**.
26. Niagara College’s position that members should not use the email signatures or communicate about bargaining using email or the LMS system constitutes an interference with the administration of a trade union and the rights and activities of OPSEU and its members which are lawful and protected under the *CCBA*. Niagara College’s position that these activities are contrary to its policies carries with it an implicit threat of discipline to the Union’s members. Niagara College has interfered with the rights of OPSEU’s members to choose to demonstrate support for their bargaining agent’s position during contract negotiations, and has interfered with members’ efforts to support the Union by increasing student and public awareness of the issues in bargaining. Niagara College has attempted to deter support for positions the Union will take in strike activity and/or in response to actions by the CEC (including its decision to impose terms and conditions and any future actions by CEC, including but not limited to a potential final offer selection vote), to grant CEC and the Colleges an unfair advantage over the Union in achieving its collective bargaining objectives. Finally, Niagara College has interfered with the

Union's right to seek support from its members, and to engage in strike activity that is free from undue influence and threats of reprisal.

27. While Niagara College purports to restrict the members from expressing themselves through email, the College has itself emailed statements about bargaining to its employees. By way of example, on January 13, 2022, Mr. Kennedy emailed his January 11, 2022 letter described above to the members at Niagara College. If management's emails do not violate the College's policies and are permitted, there can be no basis to find that that countervailing messages from the Union and its members are somehow inappropriate.

Humber College

28. On or about January 6, 2022, Associate Deans at Humber College sent the following email to members:

“It has come to my attention that information pertaining to union activity has been placed in Humber email taglines, auto replies and in correspondence to students.

As per the Acceptable Use Policy for Technical Services, Humber email is not to be used for non- Humber business and is not for use to promote union activity; as such, you are to refrain from using Humber email and correspondence to students to discuss union activity as this is not permitted by the College”

(sample redacted emails attached at Tab **11**)

29. Copies of Humber College's Academic Freedom policy and its Acceptable Use Policy for Technical Services policy are attached collectively at Tab **12**.
30. Humber College's position that members should not use the email signatures (or other email features such as “auto-replies”) or communicate about bargaining using the LMS system (described above as correspondence to students) constitutes an interference with the administration of a trade union and the rights and activities of OPSEU and its members which are lawful and protected under the CCBA. Humber College's position that these activities are contrary to its policies carries with it an implicit threat of discipline to the Union's members.

Humber College has interfered with the rights of OPSEU's members to choose to demonstrate support for their bargaining agent's position during contract negotiations, and has interfered with members' efforts to support the union by increasing student and public awareness of the issues in bargaining. Humber College has attempted to deter support for positions the union will take in strike activity and/or in response to actions by the CEC (including its decision to impose terms and conditions and any future actions by CEC, including but not limited to a potential final offer selection vote), to grant CEC and the Colleges an unfair advantage over the union in achieving its collective bargaining objectives. Finally, Humber College has interfered with the union's right to seek support from its members, and to engage in strike activity that is free from undue influence and threats of reprisal.

31. While Humber College has taken the position that the Union and its members should not communicate with students about bargaining through digital means, including email, Humber College has sent emails to students concerning the bargaining. A copy of an email from Humber College to the students dated January 11, 2022 is attached at Tab **13**. It would appear that Humber College takes the view that students should only hear about the bargaining through management, and should not hear the perspectives of the Union and its members. If management's emails do not violate the College's policies and are permitted, there can be no basis to find that that countervailing messages from the Union and its members are somehow inappropriate.

Fanshawe College

32. Management at Fanshawe College has instructed members not to use the suggested email signature. By way of example, in response to an email sent by a full-time professor which contained the Union's suggested wording, on or about January 13, 2022, Acting Dean Holly Tunstill emailed a professor with the following instruction [Tab **14**]:

“Please remove the tag line from your Fanshawe email; it violates policy

C202 (link attached below for your reference).

C202 Acceptable Use of College Technology (fanshawec.ca)”

33. Fanshawe College has interfered with the rights of OPSEU and its members by instructing the members not to include the Union’s suggested language in their email signature, and by taking the position that such language violates the College’s policy, which conveys an implicit threat of discipline.
34. Copies of Fanshawe College’s Acceptable Use of College Technology policy, Code of Conduct, and its Academic Freedom Policy are attached collectively at Tab 15.

St. Lawrence College

35. On January 14, 2022, St. Lawrence College held a series of individual meetings with the Local Executive Committee and another member who had supported the digital campaign. During these meetings, Eileen DCourcy (Vice President Academic) instructed the Local’s members to cease the digital campaign, specifically to remove the Zoom background, stop using the Union’s suggested email signature in their emails or through the email auto reply feature, and remove content regarding bargaining from the Blackboard (LMS). In taking these steps, St. Lawrence College has interfered with the Union and its members’ right to choose to demonstrate support for their bargaining agent’s position during contract negotiations, and has interfered with members’ efforts to support the Union by increasing student and public awareness of the issues in bargaining. St. Lawrence College has attempted to deter support for positions the Union will take in strike activity and/or in response to actions by the CEC (including its decision to impose terms and conditions and any future actions by CEC, including but not limited to a potential final offer selection vote), to grant CEC and the Colleges an unfair advantage over the Union in achieving its collective bargaining objectives. Finally, St. Lawrence College has interfered with the Union’s right to seek support from its members, and to engage in strike activity that is free from undue influence and

threats of reprisal.

George Brown College

36. By contrast, however, some Colleges have taken no action regarding the Union's digital campaign, suggesting that the reasonable business interests of post-secondary institutions are not actually threatened by OPSEU's member engagement and advocacy.
37. At George Brown College, Timothy Bingham, the Director of Labour Relations, advised Acting Local President Paul Petrie that the College did not object to the email signature provided that members made clear they were speaking on an individual basis. In an electronic message exchange [Tab 16], Mr. Bingham advised that with this distinction, the College viewed the issue as a matter of academic freedom for the members. Mr. Bingham cited George Brown College's policy respecting academic freedom, claiming this was "unique", although in fact the province-wide collective agreement between the parties provides the foundation for academic freedom at each of the Colleges, and most if not all of the Colleges also have policies recognizing the applicability of academic freedom.
38. The recognition by George Brown College that the email signatures represent protected academic freedom highlights the unlawfulness and high-handed nature of the position of the CEC and the Respondent Colleges in targeting protected union activity.
39. For all these reasons, the relief set out in Schedule "A" is necessary.