



Labour Relations Board

Mandate and Roles Document

08/21/2023 DATE SIGNED

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1. PREAMBLE

The Mandate and Roles Document (MRD) for the Labour Relations Board ("Board" and "LRB") has been developed collaboratively between the Minister of Jobs, Economy and Trade (JET) ("Minister"), the LRB, and the Department of Jobs, Economy and Trade (JET) ("Department") to reflect a common understanding of each signatory's respective roles and responsibilities, pursuant to and in accordance with the requirements of Section 3 of the *Alberta Public Agencies Governance Act*.

Nothing in this MRD is intended to or shall interfere with the LRB's independence including but not limited to the Board's role as an independent, quasi-judicial body, the Board's procedural and substantive

decision-making authority and the exercise of the Board's statutory authority and legislative mandate. Although the Board is part of the Ministry of Jobs, Economy and Trade for administrative purposes, the Board is an independent body making independent decisions.

2. DEFINITIONS

"Labour Relations Board" ("Board" or "LRB") means the agency responsible for administering the *Labour Relations Code*, the *Public Service Employee Relations Act* and the *Police Officers Collective Bargaining Act*, and the appeal body for certain appeals under the *Occupational Health and Safety Act* and the *Employment Standards Code*.

"Chair" means the Chair of the LRB.

"Department" means the Department of Jobs, Economy and Trade (JET).

"Deputy Minister" ("DM") means the Executive Head of the Department.

"Government" ("GOA") means the Government of Alberta.

"Minister" means the Minister responsible for the *Labour Relations Code* and related regulations.

3. AGENCY MANDATE

3.1 Mandate

The Board is an adjudicative body established by Section 8(1) of the *Labour Relations Code* (Code). It is an independent and impartial tribunal responsible for the day-to-day application and interpretation of various pieces of legislation within the Province of Alberta.

3.2 Legislation and Regulations

The Board administers three main pieces of legislation:

- *Labour Relations Code*;
- *Public Service Employee Relations Act*; and
- *Police Officers Collective Bargaining Act*.

The Board administers parts of other legislation including:

- *Post-secondary Learning Act*;
- *Public Education Collective Bargaining Act*; and
- *Public Interest Disclosure (Whistleblower Protection) Act*.

The Board is the statutory appeal body for certain appeals under the following legislation:

- *Employment Standards Code*; and
- *Occupational Health and Safety Act*.

In the conduct of its business, the Board has responsibilities under, and is subject to, a number of statutes and regulations including:

- *Financial Administration Act*;
- *Government Accountability Act*;
- *Freedom of Information and Protection of Privacy Act*;
- *Public Service Act*;
- *Alberta Public Agencies Governance Act*;
- *Interpretation Act*; and
- *Reform of Agencies, Boards and Commissions Compensation Act (RABCCA)*.

3.3 Independence

The GOA and the Minister expressly acknowledge the independence of the Board and that they will not interfere with the operations of the Board as a quasi-judicial body including the Board's procedural and substantive decision-making authority and the exercise of the Board's statutory authority and legislative mandate.

Nothing in this MRD shall interfere with the LRB's proper exercise of any statutory power of decision. Although the LRB is part of the Ministry of JET for administrative purposes, the LRB is independent when making decisions in carrying out its mandate, remaining accountable to the Minister of JET for the overall operations of the Board. The LRB neutrality, impartiality and transparency are critical to maintaining public trust and confidence in its operations and decisions. Similarly, administering resources in accordance with the *Financial Administration Act*, the *Public Service Act* and GOA operational/administrative directives, policies and procedures is critical to maintaining public confidence and trust in the prudent use of government resources.

The GOA, the Minister, the DM and the Chair further acknowledge guidelines currently in place designed to reinforce the impartiality and independence of the Board. The guidelines clarify circumstances when consultation might occur between officials of the GOA and of the Board over legislative initiatives. They set out procedures to ensure both fairness and greater transparency in Board processes when any such consultations take place. Appendix "A" of this agreement is a copy of these guidelines.

4. ACCOUNTABILITY ROLES AND RESPONSIBILITIES

4.1 The Government of Alberta ("GOA")

Accountabilities

The GOA is accountable to the Premier and the citizens of Alberta.

Responsibilities

The GOA is responsible for the financial, legislative, regulatory and policy framework in which the Board operates.

4.2 Minister of Jobs, Economy and Trade (JET)

Accountabilities

The Minister is determined under Section 16 of the *Government Organization Act* as the Minister responsible for the *Labour Relations Code*. The Minister is answerable to the Legislative Assembly and the public for the activities and performance of the LRB.

Responsibilities

As the representative of government, the Minister is responsible for the financial, legislative, regulatory and policy framework within which the Board operates and is accountable to the Legislature for the Board. In so doing:

- a. ensures the agency is fulfilling its mandate in compliance with GOA policies, while respecting the need of the Board for independence in conducting its adjudicative functions;
- b. provides direction regarding government public policy expectations;
- c. advises on government priorities;
- d. reports to the Legislature on the business and affairs of the LRB and answers questions in the Legislature about the LRB;
- e. ensures that the Board (at the end of each government fiscal year) makes a report on the operations of the Board during that year to the Minister;
- f. on receipt of the report, the Minister shall lay 5 copies of it before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting;
- g. informs the LRB of GOA policies and direction that might affect the work of the LRB;
- h. meets regularly with the Chair of the LRB on matters relating to the LRB outcomes and goals;
- i. meets from time to time with the Chair of the LRB with respect to significant events concerning the LRB and to discuss matters of mutual concern;
- j. communicates with the LRB with regard to proposed changes to the Code and other legislation affecting the LRB, in accordance with the guidelines outlined in Appendix A;
- k. makes such resources available to the Board as are reasonably required to meet its obligations. In providing supports (such as human resources, finance, IT, facilities) to the Board in fulfilling its statutory mandate, the Minister recognizes these issues may affect the Board's operations as an independent quasi-judicial body and will communicate with the Board to minimize effects upon the Board's adjudicative operations.
 - The Minister understands the Board needs a site and facilities that are sufficient for it to carry out its mandate.

- While Board information may reside on GOA information technology resources, the confidentiality of Board information is essential given that GOA may appear as a party in matters before the Board. For this reason, GOA maintains policies and procedures limiting access to Board information to purposes necessary for information technology support and maintenance of its systems;
- l. recommends the appointment of Board members and Chair following a selection process (herein later described) and based on the Minister's assessment that the appointees have the appropriate knowledge, skill, experience and values to assist the Board in achieving its objectives and performing its functions and fulfilling its mandate; and
- m. conducts a review of the mandate and operations of the LRB, at least every seven years, in accordance with Section 19 of the *Public Agencies Governance Act*.

4.3 Deputy Minister (DM) of Jobs, Economy and Trade (JET)

Accountabilities

The DM is the senior public servant in the Department of JET and has a dual accountability and reporting relationship to the Minister of JET, and to the DM of Executive Council.

Responsibilities

The DM supports the Minister in fulfilling the Minister's collective and individual responsibilities as Minister and accountability to the Legislature.

The DM is responsible for:

- ensuring sound public service advice on policy development and implementation, within the ministry of Jobs, Economy and Trade, and with respect to the GOA's overall policy and legislative agenda;
- effective departmental management;
- providing advice on management of the Minister's entire portfolio; and
- fulfilment of authorities that have been assigned to the DM or other departmental officials either by the Minister or directly by virtue of legislation.

The DM ensures the Department supports the LRB in fulfilling its mandate and other duties by:

- a. providing information and advice to the Chair about government public policy priorities expectations and directives that may affect the work of the LRB;
- b. communicating with the LRB with regard to required legislative and regulation amendment, in accordance with the guidelines outlined in Appendix A;
- c. meeting from time to time with the Chair of the LRB with respect to significant events concerning the LRB and to discuss matters of mutual concern;
- d. working with the Chair to meet reasonable resource requirements for the Board to fulfill its obligations.
 - In providing supports to the Board, such as human resource, finance, IT and facilities, the DM recognizes these issues may affect the Board's operations as an independent quasi-judicial body and will work with the Board to minimize effects upon the Board's adjudicative operations;
- e. ensuring the Department fulfills its role in support of the Board providing:
 - financial resources and support;
 - human resource administration;
 - information technology support and development; and
 - administrative support (planning, reporting, facilities and other business activities).

- f. advising the LRB of issues and concerns raised by stakeholders and seeking the advice and input of the LRB in responding to those issues and concerns; and
- g. working through the Department, in the following areas when there are mutual considerations, including:
 - communications;
 - budget, forecast, Standing Committee on Public Accounts;
 - emergency planning and response;
 - recruitment and appointments (herein later described); and
 - how the department is providing supports (such as human resources and finance) to the LRB.

4.4 The Labour Relations Board (LRB)

Accountabilities

The LRB is accountable to the GOA through the Minister of JET.

Responsibilities

The LRB is the independent and impartial tribunal responsible for the day-to-day application and interpretation of Alberta's labour laws. It processes applications and holds hearings. The Board actively encourages dispute resolution, employs officers for investigations and makes major policy decisions. There are Board offices in both Edmonton and Calgary.

The Board has the power to decide whether a strike or lockout in progress is unlawful and, if necessary, order that it cease. The Board can regulate picketing by ensuring that the restrictions imposed by the Code are enforced, and by balancing the interests of those engaged in lawful picketing activity and the interests of other parties affected by the picketing.

The Code gives the Board the authority to make many other determinations, such as whether a person is an employee or whether a collective agreement has been entered into (Section 12(2)).

The LRB administers two main pieces of labour relations legislation - the *Labour Relations Code* and the *Public Service Employee Relations Act*. These Acts apply to most unionized employees in the province, but exclude employers and employees in domestic work and in industries falling under federal jurisdiction, such as airlines, railways, interprovincial trucking and shipping, and telecommunications. Self-employed workers are not covered by the Code. Some other employees in Alberta have their labour relations governed by other Acts which the Board administers in part or total, such as the *Post-secondary Learning Act*, the *Police Officers Collective Bargaining Act* and the *Public Education Collective Bargaining Act*.

The Code also excludes people who, in the Board's view, exercise managerial functions or who are employed in a confidential capacity in matters related to labour relations. It does not apply to doctors, dentists, architects, engineers and lawyers while they are employed in their professional capacities.

Board Membership

The Board consists of a Chair, four full-time Vice Chairs, four part-time Vice Chairs, and approximately 34 part-time members. The members are representative of both labour and management, and appointed by the Lieutenant Governor in Council for specified terms.

4.5 Chair of the Labour Relations Board (“Chair”)

In addition to the powers and responsibilities of the Chair outlined in the *Labour Relations Code*, and the duties and responsibilities set out herein, pursuant to Section 1(c) (vii) and 1(d) (vii) of the *Public Service Act*, for the purposes of that Act, the Chair is considered the department head and deputy head with respect to the staff of the Board.

Pursuant to Section 10(2) of the Code, for the purposes of the *Financial Administration Act* the Chair has all the powers of a deputy head of a department.

Accountabilities

The Chair is accountable to the Minister for the effective management of the Board and its compliance with applicable GOA financial and human resources policies and for the direction, leadership and guidance of the members and staff of the Board.

Responsibilities

The Chair reports to the Minister and is responsible for the operation and management of the Board, including administering and directing its statutory powers, duties and functions.

The Chair is responsible for:

- a. the day-to-day management of the Board, in accordance with the *Financial Administration Act*, the *Public Service Act* and GOA operational/administrative directives, policies and procedures;
- b. working with the DM and Department officials as required, to ensure those requirements are met;
- c. administering, interpreting and enforcing legislation within the Board’s jurisdiction in an impartial, knowledgeable, efficient, timely and consistent way;
- d. developing policies, procedures and rules;
- e. education of the labour relations community with respect to Board process and policies;
- f. engaging in dispute resolution initiatives to assist the parties before the Board in the resolution of their differences;
- g. implementing legislative changes and amendments to the *Labour Relations Code* and *Public Service Employee Relations Act* etc., including:
 - interpreting and applying new legislation;
 - developing new policies, rules and procedures; and
 - the education of and consultation with Alberta’s labour relations community, including new sectors that now fall under the jurisdiction of the Board (agriculture sector, post-secondary sector);
- h. providing the Minister with updates on the Board’s operations and informing the Minister regarding emergent issues, planned consultations, significant policies and other Board activities including progress on achieving outcomes and the accomplishment of goals;
- i. preparing and providing to the Minister a Business Plan and Annual Report for each fiscal year in the form and at a time acceptable to the Minister;
- j. ensuring that all material developments and significant emergent issues of the LRB, are disclosed to the Minister on a timely basis;
- k. attending meetings, as needed, with the DM to discuss emerging issues and administrative matters relating to the operation of the LRB;
- l. advising the DM on emergent issues, planned consultations, significant policies; and
- m. maintaining a Code of Conduct applicable to Board members including the Chair and Vice Chairs. The Code of Conduct shall be administered by the Chair, except matters involving the Chair, which shall be administered by the Ethics Commissioner. The Alberta government Code of Conduct and Ethics applies to Board staff and is administered by the Chair.

5. RECRUITMENT AND APPOINTMENT

5.1 Recruitment and Appointment

The GOA uses a competency-based recruitment process for all members of public agencies, boards and commissions (ABC). The Public Agency Secretariat, Public Service Commission, leads the coordination of recruitment activities through collaboration with departments across the GOA, Premier's Office and ABCs. The Centralized Recruitment Process is located here: <https://open.alberta.ca/publications/centralized-recruitment-guidebook-for-albertas-public-agencies-boards-commissions>. The LRB's first point of contact for starting a recruitment process is a Governance Specialist at JET.

In accordance with the Centralized Recruitment Process, and for greater clarity, interview panels for LRB vacancies will include representatives from both the management and the union side of the labour relations community. These representatives will provide input to the Chair, who will then make recommendations to the Minister.

5.2 Termination

The Minister may recommend to Cabinet the termination of the appointment of the Chair or LRB member for reasons including but not limited to:

- significant breach of an obligation under the Code of Conduct;
- theft;
- fraud;
- criminal charges; and
- other reasons deemed warranted.

6. COMMUNICATIONS WITH MINISTER, PUBLIC AND OTHERS

6.1 Communications with the Minister

The Chair of the LRB will meet with the Minister as needed.

Except as authorized by the Chair, communication between the Minister/Minister's office and the Board will be through the Chair.

Interactions between the Board and the Department will generally be between the Chair and the DM.

However, in the context of receiving support as identified above, the Board's Executive Director and other staff will liaise with program staff in human resources, information technology, accommodations, finance, governance and corporate services (i.e. business planning and Annual Report preparation). Communication may also occur where appropriate with Mediation Services.

Any consultation regarding proposed legislation will follow the processes outlined in Appendix A.

6.2 Communications with the Public

The Board may provide comment on operations through the Chair or persons other than the Chair pursuant to policies of the Board. Should the Board consult with the public, it will apprise the Minister of any such activity.

6.3 Communications with Other Stakeholders

The Chair and staff develop and maintain working relationships with stakeholders in the labour relations community, other ministries, as well as related boards and agencies across Canada.

7. CODE OF CONDUCT

The Code of Conduct provides a framework to guide ethical conduct and reflects the key values of the LRB and the public it serves.

The process for administering the Code of Conduct is referred to in the Code itself. The Code is available on the Public Agency Secretariat (PAS) website at www.alberta.ca/public-agency-secretariat.aspx.

8. ADMINISTRATION OF THE MANDATE AND ROLES DOCUMENT (MRD)

8.1 Review of the MRD

The MRD shall be in effect for not more than three years. It must be renewed or revised by the expiry date. Any party may initiate this review.

Additionally:

- a. the MRD remains in effect until it is renewed, amended or replaced, even if the LRB is not in compliance with the *Alberta Public Agencies Governance Act*; and
- b. the MRD may be amended at any time through written agreement by the Minister, LRB and the DM.

8.2 Transparency

Copies of the MRD will be filed with JET, the Board and PAS. In support of the principle of transparency, this document will also be easily available to the public on the Board's website at www.alrb.gov.ab.ca/ or through the GOA on the PAS website at www.alberta.ca/public-agency-mandates.aspx.

8.3 Periodic Agency Review

The mandate and operations of every public agency must, at least every seven years, be reviewed by the responsible Minister. A review of the Board's mandate and role will be carried out by the Minister in accordance with the review process developed in consultation with PAS.

9. OTHER

9.1 Conflicts with an Act or Regulation of Alberta

In the event that any provision in the MRD conflicts with an Act or Regulation of Alberta, the provision will be considered to be of no force or effect and will not invalidate the remainder of this document.

10. APPROVALS

We, the undersigned, agree to the terms and conditions described in this Mandate and Roles Document and commit to seeing that the intent of the document is carried out.

[Original signed by]

Nancy Schlesinger
Chair, Labour Relations Board

Date

August 21, 2023.

[Original signed by]

Honourable Matt Jones
Minister
Jobs, Economy and Trade (JET)

Date

August 21, 2023



Labour Relations Board Guidelines for Consultation on Legislation

1. This statement sets out the procedures and approaches to be followed where consultation is sought with the Labour Relations Board over proposed legislation. It also covers procedures to be followed by Chairs and Vice Chairs of the Labour Relations Board when they are assigned to hear cases that involve the interpretation of legislation where they have had some involvement with the development of that legislation prior to its enactment. Legislation includes Regulations.
2. It is essential to the proper and successful functioning of the Labour Relations Board that it function in a manner that preserves and enhances its reputation within the labour relations community as an independent and impartial adjudicator of disputes between labour and management in both the public and private sectors.
3. It is recognized that some legislative initiatives may, or may be perceived to, alter the balance in collective bargaining or the allocation of collective bargaining rights between employer and unions or between different unions. This is particularly so where the bargaining rights or relationships in issue involve public or quasi public sector entities that are to a degree dependant on the Government of Alberta for their legislative mandate or funding.
4. Impartiality is enhanced by Chairs and Vice-Chairs who have had any pre-enactment involvement with the development of legislation disclosing the fact and extent of that involvement in advance of any adjudication where that legislation may be in issue in any proceeding. Such disclosure would afford the parties an opportunity to raise or waive any objection to the Chair or Vice-Chair's sitting on that case as a result of that involvement.
5. Where the Government is proposing legislative reforms that affect the Labour Relations Board and its jurisdiction, the Chair, in appropriate circumstances, may invite the Government to seek Board input, subsequent to its introduction in the legislature, on any potentially adverse and perhaps unintended consequences of the Bill's provisions. Such an invitation would lead to a non-confidential response, to the extent such a response is necessary or appropriate.
6. Where the Government seeks significant pre-enactment advice on a potential legislative initiative, the Chair may, in appropriate circumstances advise the Government of its ability to formally refer the matter to the Board pursuant to Section 12(5) of the Act.

12(5) In addition to the matters specified or referred to in this section, the Board has all necessary jurisdiction and power to perform any duties assigned to it by the Lieutenant Governor in Council.

7. When legislation is being considered for introduction which, due to its technical nature, may require consultation with the Board, the request should be made to the Board Chair. Where the Chair views the request for consultation to involve a proposal that is likely to be viewed by parties to proceedings before the Board as favouring labour over management or vice-versa, or one party over another, the Chair may advise the Government that it is not, in the view of the Chair, a consultation in which the Board should participate, or is one in which the Board should participate in a restricted manner such as through a single person who would, thereafter, be recused from adjudicating on the proposed legislation unless the parties consent.

8. Where consultation is sought on technical, including procedural and implementation issues such as:

- the Board's ability to implement or enforce proposed measures;
- the resources necessary to implement proposed measures;
- the impact of existing board jurisprudence and practices on proposed measures;
- statistical information on the cases or bargaining relations potentially impacted by such measures; or
- issues such as the mechanics of Board processes for testing employee support, defining bargaining units, investigating applications and other tasks customarily assigned to the Board under legislation;

then, confidential pre-introduction consultation may occur subject to the procedures and protections outlined in this statement.

9. Where a request is made by Government to consult the Board on technical, including procedural or implementation, issues being considered, the request will be made to the Chair. The Chair should undertake the consultation alone, or assign the responsibility to a responsible Vice-Chair, ensuring always that there remain within the Board's compliment, persons who have not participated in the consultation. That way, in the event of a Chair or Vice-Chair recusing themselves from a hearing, others would remain available for assignment in their stead.

10. In all such cases, the Board would ensure, in advance of the consultation, that there is a person, not from the Board, responsible for drafting the proposed legislation (whether outside counsel to the Department, or to Government, or a person from the Office of Legislative Counsel). In addition, the Board would ensure that there is an official, not from the Board, responsible for the presentation to Government of the policy choices involved in the proposed measures. In any consultation, it should be expressly understood that, as a condition of that consultation, the Board should not be put in the position of having to adopt, directly or indirectly, either of these roles.

11. In any case to which the Chair or a Vice Chair is assigned, where the case raises issues concerning the interpretation of a legislative provision that has been the subject of consultation in which the Chair or Vice-Chair participated, the Chair or Vice Chair shall, prior to hearing the case, disclose to the parties the fact that a consultation took place and the fact and extent, although not the substantive content, of that consultation.

12. In the event the Government retains outside counsel in the legislative drafting process and that counsel interacts with a Chair or Vice-Chair of the Board on a confidential basis, the Chair or Vice-Chair will recuse themselves from sitting on any case involving the interpretation of the legislation concerned upon which that outside counsel appears. The same rule will apply to persons in that outside counsel's firm unless the panel hearing the case is satisfied that an appropriate "Ethical Wall" mechanism has been used within the firm in respect of that consultation process.

DATED at the City of Edmonton in the province of Alberta this 29th day of March, 2007.

[Original signed by]

Mark L. Asbell

[Original signed by]

Nancy E. Schlesinger

[Original signed by]

J. Leslie Wallace

[Original signed by]

James T. Casey, Q.C.

[Original signed by]

Gerald A. Lucas, Q.C.

[Original signed by]

Andrew C.L. Sims, Q.C.

[Original signed by]

D. Sean Day
November 2, 2007

[Original signed by]

Lyle S. Kanee
August 5, 2008

[Original signed by]

Ian J. Smith
November 20, 2013

[Original signed by]

William J. Johnson, Q.C.
January 27, 2016

[Original signed by]

Gwen J. Gray, Q.C.
June 1, 2016

[Original signed by]

Bertha Greenstein
January 1, 2019

[Original signed by]

Ayla Akgungor
February 1, 2019

[Original signed by]

Jeremy D. Schick
September 25, 2019

[Original signed by]

Gordon Nekolaichuk
August 1, 2021

[Original signed by]

William J. Armstrong, Q.C.
June 23, 2021