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University of
Lethbridge



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Ms. Tannis Brown
Director of Settlement
Alberta Labour Relations Board
501, 10808 99th Avenue
Edmonton, Alberta
T5K 0G5

Dear Ms. Brown,

POSTED

File No.

Support Doc No.

Date

Posted By

**RE: Application by the University of Lethbridge Faculty Association Regarding
Number of Bargaining Units and Collective Agreements**

I am writing with reference to Ms. Leanne Chahley's (Blair Chahley Lawyers) letter of January 4, 2018 with respect to the above matter. Ms. Chahley acts as legal counsel for the University of Lethbridge Faculty Association (ULFA). I write on behalf of the Co-Chairs of the Governors of the University of Lethbridge ("the University") Negotiating Team, with respect to the negotiation of two collective agreements, the Faculty Handbook (FH), and the Sessional Lecturers Handbook (SLH). These collective agreements cover two academic staff groups at the University of Lethbridge: (a) faculty members, instructors, academic assistants and professional librarians who are employed by the University on a full- or part-time basis ("faculty members" hereafter); and (b) sessional lecturers who teach no more than one course per academic semester ("sessional lecturers" hereafter), respectively. Sessional lecturers at the University of Lethbridge (UofL) typically engage in other, full- or part-time employment with employers other than the University. Ms. Chahley has provided you with copies of the two collective agreements, the FH and the SLH, which expire respectively on June 30, 2018 and April 30, 2018.

ULFA is applying for you to rule that the FH and SLH constitute one collective agreement in two parts, covering one bargaining unit comprised of the members described in (a) and (b) above combined. ULFA advances several assertions in support of its position, but has not demonstrated how those assertions are justified in the context of the new labour relations régime in Alberta governing post-secondary educational institutions. ULFA also purports to describe the historical perspective pertaining to its collective bargaining activities on behalf of the groups in (a) and (b) above. Unfortunately, this characterization contains several factual errors, and ignores a bargaining history going back over ten years, where the FH and SLH collective agreements have been negotiated separately, on behalf of two distinct bargaining units: faculty members; and sessional lecturers. In what follows, I will outline why it is the University's position that negotiations have and should continue to pertain to two distinct collective agreements, relative to two distinct bargaining units.

I will then review the various assertions advanced by ULFA, describing areas of common understanding and differences of opinion with respect to the University's and ULFA's positions.

In concluding, the University submits that there is no basis, statutory or otherwise, to issue an award that would require an alteration to the collective bargaining environment at the UofL, and is requesting that you reject ULFA's application and its requested remedies in their entirety.

Historical Perspective Establishes Two Distinct Collective Agreements

- (1) Since its creation in 1967, the University has employed faculty members with terms and conditions of employment described in a series of FHs, the first FH having been adopted in May, 1967 (copy included as Enclosure No. 1). That agreement covered only long-term faculty members. Temporary or part-time faculty members were explicitly excluded. With a changing academic environment over time, temporary, full-time and part-time faculty members have been included in the coverage of the FH, when these employees are performing the full range of duties for the type of position to which they are appointed. Sessional lecturers have routinely been employed since the University's creation, but only to teach specific courses in an identified academic semester. Until 2007, terms and conditions of employment for sessional lecturers were identified solely through their letters of appointment, and within the confines of other University policies and procedures. The FH has not played any role in the appointment or in the terms and conditions of work of sessional lecturers prior to the first SLH of May 1, 2007, or since. A copy of that original SLH collective agreement is enclosed with this letter (Enclosure No. 2).
- (2) Currently, approximately 480 faculty members are covered by the FH. In any given academic year (July 1 to June 30 annually), approximately 190 sessional lecturers are employed by the University and are covered under the SLH. Both groups of academic staff include members at the two UofL campuses in Calgary and Lethbridge.
- (3) Sessional lecturers are employed to teach, at most, one course per academic semester. The maximum one course load per semester is to affirm that sessional lecturers are not "career academic positions." Most sessional lecturers have other employment than by the University as sessional lecturers. Sessional lecturers are often individuals who have a specific skill-set not always fully represented in the faculty member complement covered by the FH – for example, lawyers, accountants, engineers, retired judges and other professional specialists of various sorts. Employment of such individuals as sessional lecturers enables the University to provide cost-effective instruction in specialized courses via individuals with excellent expertise in their professional area.
- (4) The FH and SLH collective agreements are entirely different in the terms and conditions of employment that they articulate for faculty members and sessional lecturers respectively, as even a brief review of the two documents demonstrates. For example, the FH contains seniority provisions, whereas the SLH does not. In addition, the economic benefits in the two agreements are entirely different. In the FH, there is a distinct salary scale (see Schedule A of the FH), describing a model of career progression with respect to both salary and rank. Such a structure is absent in the SLH, where there are no seniority provisions, no rank provisions, and simply a "fee for service" remuneration model, for the course being taught. It is also of interest to note that the per-course amount in Schedule A of the SLH is and always has been different from the per-course "overload stipend" for additional courses taught by faculty

members, specified in Schedule A.03 of the FH. Reference to non-salary benefits in Schedule B of the FH and in Schedule B of the SLH also delineates major differences. Additionally, not only have these two collective agreements been negotiated separately in the past, they have also undergone separate and distinct ratification processes. For the most recently negotiated FH and SLH, we enclose letters from ULFA dated June 2, 2016 and October 24, 2016 (Enclosures Nos. 3 and 4 respectively), indicating distinct ratification votes for the two ULFA membership bargaining units. Finally, the most recently negotiated FH and SLH expire on June 30, 2018 and April 30, 2018 respectively.

- (5) Prior to the negotiation of the SLH, ULFA approached the University with a request that it negotiate a collective agreement with the University on behalf of sessional lecturers. Under the PSLA, sections 84-91, at the time of these discussions (prior to the current post-secondary labour relations environment in Alberta), ULFA could only represent sessional lecturers if the University were to designate them as "academic staff". Of course, at that time, it would have been possible for the sessional lecturers to organize themselves and seek certification for another agent to bargain collectively on their behalf. However, it was convenient to designate sessional lecturers as academic staff so long as they were covered by a collective agreement other than the FH. This was a condition on which the University insisted, if it were to designate sessional lecturers as academic staff. The creation of the SLH then provided a convenient, standardized framework for the terms and conditions of employment for what, with UofL growth, had become a significant number of University employees.
- (6) For at least the past ten years, the University Negotiating Team has comprised the same individuals for both the FH and the SLH. However, negotiations have always been carried out as specific sets of negotiations with respect to the two distinct groups in (a) and (b) above, faculty members and sessional lecturers respectively. Articles 3.02 of the FH and the SLH outline the timelines and procedures that have been used in the past for negotiation of the two collective agreements. As part of these negotiation procedures, the University has provided separate, written notice to ULFA with respect to items for negotiation at the commencement of prospective negotiated changes to the FH or SLH. For your information, example letters pertaining to each of the last two rounds of collective bargaining for each of the FH and SLH are enclosed. These letters are dated: (i) December 14, 2014 and October 9, 2015 with respect to the FH; and (ii) January 22, 2015 and October 26, 2015 with respect to the SLH. (Enclosures Nos. 5-8 in I and II respectively). Finally, enclosed is (Enclosure No. 9), the calendar of meetings for the separate FH and SLH collective bargaining schedule in Spring, 2016. Most of these meetings related to FH collective bargaining, throughout March, 2016, with the final two FH collective bargaining meetings being in April, 2016. On April 1 and 8, 2016, there were two meetings, concerning changes to the SLH collective agreement, alone.
- (7) Certain "economic benefits" provisions in the 2010 FH were in effect to June 30, 2016, hence the December 4, 2014 letter with regard to the FH indicates negotiation activity around collective agreement language issues other than economic benefits provisions. The letter dated October 9, 2015, with respect to the FH, on the other hand, indicates negotiating items around both language and economic benefits considerations. As a result of the FH negotiated effective July 1, 2016 (the current FH), it was agreed that future FH negotiations would only take place on a cycle concurrent with the expiry of economic benefit provisions.

- (8) Similarly, *mutatis mutandis*, the January 22, 2015 letter pertaining to the SLH highlights *economic benefits* negotiations for that forthcoming period of bargaining, as well as possible language issues that ULFA might have wished to raise. These negotiations resulted in the current SLH collective agreement with respect to economic benefits in Schedule A of the SLH, expiring on April 30, 2018. The October 26, 2015 SLH letter then offers the opportunity to ULFA to discuss any language issues it wished to negotiate, with the economic benefits elements remaining in effect, pursuant to the prior SLH. On the occasion of the October 26, 2015 letter from the University, the University had no language changes it wished to present to ULFA. Nonetheless, ULFA presented some minor language item changes, which were successfully negotiated, and incorporated in the current SLH collective agreement.
- (9) As noted in (4) above, the collective bargaining processes described in (7) and (8) above then led to separate, distinct ratification procedures by both ULFA: (a) for the faculty member bargaining unit with respect to the FH; and for the sessional lecturers bargaining unit with respect to the SLH; and by the University through separate Board motions with respect to the FH or the SLH.
- (10) In short, but for the commonality of the UofL and ULFA as the negotiating parties and the designation of the respective employee groups as academic staff, there is nothing to suggest that the two agreements are merely one collective agreement with two parts, as asserted by ULFA.

Two Distinct Bargaining Units and Collective Agreements Supported by the ALRB's General Principles

- (11) The Alberta Labour Relations Board (ALRB) Information Bulletin #9 outlines General Principles, Specific Board Policies and Unit Considerations for Specific Industries describing the principles the ALRB uses to determine the appropriateness of collective bargaining units, a copy of which is enclosed herewith (Enclosure No. 10), for ease of reference.
- (12) With respect to General Principles, relative to the situation at the UofL, we offer the following, in support of the maintenance of two distinct bargaining units and two distinct collective agreements pertaining to the employee groups described in (a), faculty members, and (b), sessional lecturers, above.

a. Insufficient Community of Interest

Faculty members and sessional lecturers are not employee groups with sufficient "community of interest" to comprise one bargaining unit. Faculty members have continuing attachment to the University, are involved in institutional governance via the General Faculties Council ("GFC" - defined in sections 23-26 of the PSIA). Furthermore, faculty members and sessional lecturers do not have common skills or working conditions. That is, faculty members are contractually required to teach at the undergraduate and graduate levels (via their membership in the School of Graduate Studies in the latter case), engage in scholarly and research activity, and contribute service activities to the UofL and to society. This last activity calls for faculty members to be involved in the creation and modification of academic programming at the UofL, via the GFC. Sessional lecturers, on the other hand, are contracted for a semester (approximately thirteen weeks) to teach a single undergraduate course in their area of expertise, cannot be members of the School of Graduate Studies, are ineligible to apply for internal funding such as travel awards or research grants, cannot be listed on tri-

council applications as Principal or Co-Investigators, have no long-term attachment to the UofL generally, and do not participate in UofL governance via its GFC. Finally, it is evident that faculty members and sessional lecturers have conflicting goals in collective bargaining, since it is in the interests of faculty members to limit the extent to which sessional lecturers engage in teaching activity. Furthermore, this conflict in goals is structured decisively in favour of faculty members, as they have more than double the membership numbers of sessional lecturers, so could routinely out-vote sessional lecturers in any ratification, strike or other ULFA membership vote should the two groups become one bargaining unit.

b. Collective Bargaining Past History

The letters referred to in (5) above clearly demonstrate that the bargaining history for faculty members has been separate and distinct from that for sessional lecturers. Separate meetings have been scheduled for each round of faculty member and sessional lecturer negotiations through the five rounds of bargaining since ULFA began representing sessional lecturers for collective bargaining purposes in 2007. In addition, until the new post-secondary labour relations environment in Alberta, there were five other employee groups (apart from management) at the UofL covered by collective agreements or employee manuals: AUPE local 053, Exempt Support Staff, Non-academic Senior Administrators, Administrative Professional Officers, and members of the Graduate Students' Association. With the passage of Bill 7, *An Act to Enhance Post-Secondary Academic Bargaining in Alberta* ("the Act"), post-doctoral fellows now also form an explicit, additional bargaining unit at the UofL. Maintaining sessional lecturers as a separate bargaining unit covered by a separate collective agreement not only accords with past bargaining history at the UofL, but also does not "carve" out a group of employees from an existing bargaining unit.

c. Nature of UofL's Organisation and Viability of Bargaining Structures

All current bargaining units at the UofL have been demonstrated to be viable bargaining structures over the period of the UofL's bargaining history. Collective bargaining has been concluded relatively positively, despite some financially-challenging periods through which the Alberta economy has transitioned, during several of these collective bargaining cycles. Also, the viability of these bargaining structures and the relative straightforwardness with which collective agreements have been reached is a testimony to the lack of fragmentation embodied in the UofL's collective bargaining unit structure.

d. Agreement of the Parties

Irrespective of where the impetus came from for the initiation of two academic staff collective agreements at the UofL, presently there are clearly two, distinct signed collective agreements between ULFA and the University ("the Parties"). This is a *prima facie* demonstration that the Parties have agreed to what represents distinct bargaining units at the UofL with respect to its organisation of its academic affairs. A multitude of examples in support of this position can be found in the FH and SLH collective agreements, some examples of which are: exclusion of sessional lecturers from coverage in the FH collective agreement by reference to Article 2.26 of the FH; both the FH and SLH refer to themselves as "this agreement"; and each collective agreement has historically not only had differences in their terms in effect, but also differences in their effective dates. A summary of the timeline history and effective dates of each of the FH and SLH collective agreements is included (Enclosure No. 11).

- (13) The University thus concludes that, relative to the foregoing General Principles of the ALRB, the current number of academic bargaining units (two) for faculty members and sessional lecturers at the UofL is appropriate and should continue. The University also

argues that, in adhering to these ALRB General Principles, the University is following "Specific Board Policies" and "Unit Considerations for Specific Industries" with respect to its "rules of thumb" for the establishment of separate bargaining units for faculty members and sessional lecturers.

ULFA's Specific Representations Regarding Number of Bargaining Units/Collective Agreements for Academic Staff – Inconsistent with the Intent of the Act

As noted earlier, ULFA has made a number of assertions with supporting evidence regarding the consolidation of two academic staff bargaining units at the UofL into one. In addition to these assertions, ULFA has claimed that this is one of the intentions of the Act. The University does not agree with this key ULFA assertion.

The intent of the Act was not to make a radical change in the collective bargaining environment of post-secondary educational institutions in Alberta, through a re-defining of the numbers of bargaining units and collective agreements thereat, which is what would occur at the UofL if ULFA's application is accepted by the ALRB. Rather, the intent was to codify appropriately the collective bargaining rights of Alberta's post-secondary education institution workers consistent with their right to strike in the context of the ALRC. This is clear from Minister Marlin Schmidt's introduction of the Act (Bill 7, First Reading) in the Alberta Legislature on April 6, 2017 (relevant extract from *Hansard* enclosed (Enclosure No. 12)).

In its application to your office dated January 4, 2018, ULFA has listed in thirty-seven (37) numbered points its assertions in support of its position calling for the ALRB to declare faculty members and sessional lecturers at the UofL as comprising one bargaining unit covered by one collective agreement. In what follows below, the University's perspective on each of ULFA's points is addressed.

- (1) The University has no substantive disagreement with the assertions ULFA makes in its Items 1. and 2.
- (2) The University does not agree with ULFA's assertion in Item 3., that sections 87 and 88 of the PSLA call for academic staff to be confined to one bargaining unit, nor that one collective agreement is mandated in the PSLA to cover all (designated) academic staff. These sections of the PSLA simply refer to "an" agreement covering academic staff, not "the" agreement covering academic staff. Similarly, in the new section 84(1) of the PSLA, the indefinite article "an" is used again rather than the definite article "the", suggesting that the Alberta Legislature's intention (described in Enclosure No. 12) was not to limit collective bargaining for academic staff to one collective agreement. Also, there are cases in Alberta where post-secondary educational institutions have bargaining units partitioned in a variety of ways, including or excluding sub-sets of "faculty members" as defined at the UofL, and including or excluding "sessional lecturers" as defined at the UofL, and covered by more than one collective agreement.
- (3) The University agrees with ULFA's assertion in Item 4. describing how academic staff at the UofL have been designated. This does not, however, have any implication for the number of bargaining units or collective agreements covering academic staff at the UofL. There is simply no one-to-one correspondence between "academic staff" and "bargaining unit". Such a correspondence would, in any case, be inconsistent with the ALRB's General Principles for the formation of "an appropriate bargaining unit" detailed in the ALRB Information Bulletin #9, referred to above. Furthermore, a 2012 decision of the ALRB (CR-04572) is relevant here (a copy of this decision is enclosed for ease of reference as Enclosure No. 13). That decision relates to the designation of an "appropriate unit" of academic staff for collective bargaining purposes at the Concordia

University of Alberta, Edmonton (CUA). Interestingly, at the time of that decision, although the UofL was covered by the PSIA for the purposes of its labour relations environment, CUA was not, so was instead covered by the Alberta Labour Relations Code (ALRC). With the UofL having now transitioned to the same labour relations environment as CUA, that is, governed by the ALRC, the parallels between academic staff bargaining unit numbers at the UofL and CUA are relevant, insofar as an ALRB ruling with respect to number of bargaining units is concerned. In the case of CUA, the ALRB has ruled that only "all full-time faculty" are included in the CUA collective agreement between the CUA Board of Governors (CUAB) and the CUA Faculty Association (CUAFA). In rendering this decision, the ALRB not only excluded sessional lecturers from the bargaining unit, but also excluded full-time, long-term staff such as laboratory teachers and technicians, professional librarians and field placement coordinators. This decision was rendered with strong reference to the General Principles in ALRB Information Bulletin #9 for the establishment of "an appropriate bargaining unit."

- (4) The University does not take any issue with ULFA's assertion in Item 5., nor with those in Items 6.a., 6.c., 6.d., 6.e, 6.f. and 6.g., insofar as they merely reiterate the language of the ALRC (despite some errors of transcription). However, the University does not agree, under ULFA's Item 6.b., that the effect of section 58.1(3) is that the FH and SLH are to be combined into a (that is, one) collective agreement. Rather, the University submits that the proper interpretation and effect of that section is that the FH and SLH are each a collective agreement under the new legislation, since as submitted above, the FH and SLH were already each an agreement, separate and distinct from one another, established under the PSIA, prior to the passage of the Act.
- (5) In Items 7. to 10., ULFA claims that part of the intent of moving post-secondary institutions within the scope of the ALRC was to make faculty associations the bargaining agent of single bargaining units of "academic staff" at these institutions. The University has shown, with reference to *Hansard* above, that ULFA's assertions in Items 7. - 10. with respect to the intent of the Act, was not the intent of the Alberta Legislature at all. ULFA's further claims that "(a)ll of the accepted principles related to determining the appropriate bargaining unit under the Code are also consistent with an interpretation that ULFA was made the bargaining agent of one single bargaining unit" is also without foundation. ULFA's assertions in these sections of its application ignore ALRB General Principles for creation of "appropriate bargaining units", and also the ALRB decision, CR-04572, referred to above. Furthermore, designation of bargaining units of "academic staff" as being partitioned into more than one bargaining unit is not uncommon across Canada. In the case of the University of Regina Faculty Association (URFA) for example, URFA acts as bargaining agent for seven academic and other staff bargaining units (<http://www.urfa.ca>). In the case of the First Nations University of Canada (FNUC), an Independent, Federated College of the Federation of Saskatchewan Indian Nations (FSIN) at the University of Regina (UofR), for example, URFA has three, separate collective agreements covering FNUC academic staff, FNUC administrative, professional and technical staff, and FNUC sessional lecturers. Finally, ULFA asserts that its interpretation is consistent with the ALRB's jurisprudence but cites none; in this regard, the UofL reserves its right to respond further should any such jurisprudence be cited.
- (6) The University does not agree with ULFA's assertion in Item 9 that "if section 58.3(1)(c) was intended to create multiple bargaining units it would have specified that possibility." ULFA's assertion is based on an inaccurate and unsupported premise that, prior to the Act, all academic staff at an institution necessarily comprised one bargaining unit. For the reasons articulated above, the University submits that its academic staff comprise

two bargaining units. Moreover, the purpose and thrust of section 58.3(1)(c) is to establish the authority of the academic staff association as the bargaining agent of the academic staff. Any interpretation of that section purporting to affect the permitted composition of bargaining units of academic staff is, at best, ancillary and unclear. Legislating a change to the composition of bargaining unit(s) of academic staff would be highly significant from a labour relations perspective and, as such, would most assuredly have been drafted by the Legislature as an express, clear, stand-alone provision, and not in the manner asserted by ULFA. *Hansard* (Enclosure No. 12) supports the University's position in this respect.

(7) The University does not agree with ULFA's assertion in Item 10 and questions the accuracy of the quote "all academic staff" therein. It is submitted that such a phrase does not exist in the ALRC, deliberately so by the Legislature, and that ULFA has likely 'read-in' the word "all" where it does not exist to bolster its assertions. If the University has inaccurately interpreted ULFA's intent and such a phrase does exist in the ALRC, the University requests that ULFA specify the section number containing the phrase so that the University may fairly consider and respond.

(8) In Items 11. – 18., ULFA claims to explain the bargaining history with respect to faculty members and sessional lecturers at the UofL since 2007. For example, Item 11. refers to the "...separation of the terms and conditions of employment for sessional staff into a separate Sessional Handbook...". However, this is an erroneous characterisation since, prior to the existence of the UofL SLH, terms and conditions of employment for sessional lecturers were governed by individual letters of appointment. What the 2007 SLH collective agreement did was create a comprehensive set of terms and conditions of employment for sessional lecturers across the UofL. Throughout these sections of ULFA's ALRB application, frequent reference is also made to past bargaining history, purporting to represent this as having been co-mingled insofar as FH and SLH collective agreement negotiations were concerned. Nothing could be further from the truth. The University took great pains to keep these negotiation matters separate, as they related to two different bargaining units with differing bargaining mandates, and two collective agreements. The correspondence provided as Enclosures Nos. 5-8 and noted earlier supports the University's contention. Enclosed herewith, we have also provided a chronology of the bargaining histories for the FH and SLH since 2004 with respect to the former, and since 2007 with respect to the latter (Enclosure No. 11). The University was cognizant of the fact that sessional lecturers, if they chose, could decide collectively on a *different* bargaining agent than ULFA, as is common for such an employee group at other universities in Canada. See, for example, the sessional lecturers collective agreement between CUPE Local 3913 and the University of Guelph Board of Governors (UGBG), https://cupe3913.on.ca/assets/uploads/2017/08/UNIT-1_2016-2019.pdf.

It therefore made eminent sense to the University to maintain these two collective agreements separately, with respect to two distinct bargaining units. Furthermore, the option to seek an alternative bargaining agent to ULFA remains open to UofL sessional lecturers (and, indeed, faculty members) after the five-year transitional period under the Act. ULFA has also claimed that "...the parties have always seen the Sessional Handbook as deriving from and being based on the Faculty Handbook. For example, Article 1.01 of the Sessional Handbook addresses an item or provision inadvertently left out of the Sessional Handbook...". Again this is inaccurate, and is also a misunderstanding of Article 1.01. Clearly, for economies of language drafting, use and communality of understanding, there can be areas in collective agreements that are similar. This does not mean these constitute the same collective agreement. See, for example, the bargaining units and collective agreements detailed at the ULFA Web Site, referenced earlier. Furthermore, the intent of Article 1.01 in the SLH (and similar

language in Article 1 of the FH), is to provide a mechanism for the resolution of disputes via an "Interpretation Committee" when ULFA and the University do not agree on the interpretation of specific language sections in one or other of the collective agreements. It is also disingenuous for ULFA to argue in Item 18. of its submission that "... (I)t makes no labour relations sense..." for the ALRC to allow for the existence of two bargaining units and two collective agreements in the present case. The University and ULFA have already been negotiating separate collective agreements in this regard for the past ten years and, in addition, the University has other collective agreements that it negotiates with a variety of other (in future, six other) bargaining agents on campus. It is, of course, perfectly normal for an employer in Canada to bargain collectively with multiple bargaining agents in respect of multiple bargaining units.

- (9) In Items 19. - 22., ULFA has outlined discussions it had with the University in November and December, 2017 regarding preparations for collective bargaining. The University does not agree that this description represents an accurate record of events. With respect to Item 22., the bargaining history for the FH and SLH collective agreements described herein has established that there are two bargaining units and two collective agreements in place for academic staff at the UofL. The SLH collective agreement expires on April 30, 2018, so we are already within the sixty (60) to one-hundred-twenty (120) day window during which notice of intention to commence collective bargaining is to be given, pursuant to the ALRC. The University has already established its bargaining mandate, so is ready to proceed immediately with negotiation of the SLH collective agreement.
- (10) The University agrees with ULFA's characterisation in Item 23. Under Item 24. to clarify, there were many years in which no negotiations on SLH collective agreement terms and conditions were needed, and none occurred. Because of the complexity of the FH, however, there were routinely language negotiations in most years, even when FH economic benefits provisions were already in place from a prior round of negotiations.
- (11) The University agrees with ULFA's characterisation in Item 25. and submits that it affirms the University's position that the FH and SLH constitute two separate collective agreements, with different terms and different effective dates.
- (12) The University agrees with ULFA's characterisation in Item 26. and submits that it affirms the University's position that the FH and SLH constitute two separate collective agreements, with different terms and different expiry dates. The non-alignment of dates was deliberate, given that there were two collective agreements. Non-alignment then allowed for sequential negotiations of the two agreements, rather than concurrent negotiations, where such negotiations would deal with different subject matter, given the fundamental differences in the types of appointments and terms and conditions of work of faculty members versus sessional lecturers.
- (13) The University agrees with ULFA's characterisation in Item 27. and submits that it affirms the University's position that the FH and SLH constitute two separate collective agreements, with different terms and different expiry dates.
- (14) The University takes no issue with ULFA's assertions in Item 28., insofar as they reiterate provisions of the ALRC, but questions the relevance of section 58.7(5) in particular. The University takes no issue with the statement in Item 29. that the FH and SLH have expiry dates. The University does not agree that the FH and SLH together form one collective agreement. ULFA's assertion in Item 30. is unnecessary, since there are expiry dates clearly stated in each collective agreement, and these simply

need to be followed, relative to the provisions of the ALRC. The University has no substantive disagreement with the assertions made in Item 31.

- (15) In Items 32: - 36., "ULFA submits that the Code does not permit more than one collective agreement for each bargaining unit and further, that interpretation is consistent with the jurisprudence of the ALRB and other Canadian Labour Relations Boards." The University disagrees. In ALRB decision CR-04572, the ALRB *reduced* the membership scope of the bargaining unit being requested, excluding not only a number of long-term academic staff and professional librarians at CUA, but also CUA sessional lecturers. To require the University to transition to one collective agreement and one bargaining unit for faculty members and sessional lecturers has no statutory foundation and would be inconsistent with the ALRB interpretation of its General Principles for defining an appropriate bargaining unit under the ALRC. Further, as noted earlier, the two employee groups *do not* have a single community of interest, and are actually in competition with each other for collective bargaining purposes and objectives. Creating one bargaining unit and one collective agreement would marginalize the minority group, the sessional lecturers, and make the group's task of achieving its collective bargaining aims within a single bargaining unit very hard to accomplish, alongside the collective bargaining goals of faculty members. Furthermore, ULFA's position disregards such examples as the University provides pertaining to URFA and CUPE Local 3913 at the University of Guelph (UoG). Finally, the intent of the Act was not to make substantive changes to the labour relations environment in post-secondary education institutions in Alberta as it relates to bargaining unit composition, but simply to bring the environment into line with the ALRC with respect to employees' rights to job action, and the need for essential services agreements in that altered labour relations environment.

Remedy Sought

The University merely seeks the continuation of collective bargaining at the UofL for designated academic staff that has been in place for the past ten years, since 2007. That is, collective bargaining by two bargaining units of academic staff comprising: (a) faculty members; and (b) sessional lecturers, the former bargaining unit members covered under the FH Collective Agreement, and the latter covered under the SLH Collective Agreement. The University therefore requests that the ALRB reject ULFA's application to consolidate faculty members and sessional lecturers as one academic staff bargaining unit under one collective agreement at the UofL.

With the foregoing remedy in place, it will be possible to begin collective bargaining for the SLH Collective Agreement immediately, and complete final preparations for issuing a notice, at the appropriate time according to the ALRC, to commence collective bargaining with respect to the FH Collective Agreement, which expires on June 30, 2018.

Thank you for your consideration.

Sincerely,



Mr. Scott Hartling, JD, BMgt
Legal Counsel & Privacy Officer
University of Lethbridge
Enclosures

cc/ Annabree Fairweather, Executive Director, ULFA

The Parties to this application for resolution are:

1) Representing the Governors of the Board of the University of Lethbridge:

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