

# APPROPRIATE BARGAINING UNITS

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## INTRODUCTION

The Board only certifies a group of employees if the resultant bargaining unit is suitable for collective bargaining. A group is more than one employee.

When a trade union applies for certification, it must describe the bargaining unit it wants to represent. The Board, as part of its investigation into the application, reviews the bargaining unit proposed by the union to see if it is an appropriate unit for collective bargaining. See: [[Section 35\(1\)](#)]. This policy discusses the factors relevant to whether a bargaining unit is appropriate, including:

- general considerations;
- community of interest;
- bargaining history;
- the desirability of separating white-collar and blue-collar employees;
- avoiding fragmentation;
- the nature of employer's organization;
- agreement of parties;
- desires of employees;
- traditional methods of union organization; and
- geographical limitations.

## GENERAL CONSIDERATIONS

The Board considers both statutory and policy concerns when deciding on bargaining unit appropriateness. Bargaining units consist of employees. Therefore, by definition, they exclude from coverage under the [Code](#):

- A person who performs managerial functions or is employed in a confidential capacity in matters relating to labour relations. See: [[Section 1\(1\)\(i\)](#); [Management Exclusions, Chapter 24\(d\)](#); [Confidential Exclusions, Chapter 24\(e\)](#)].
- A person who is a member of the medical, dental, architectural, engineering or legal profession and employed as such. See: [[Section 1\(1\)\(ii\)](#); [Professional Exclusions, Chapter 24\(g\)](#)].
- A firefighter who is a chief or deputy chief of a fire department. See: [[Managerial Exclusion Act, Section 2](#)].
- Employees working for an employer covered by the [Public Service Employee Relations Act](#). See: [[Section 1\(m\)](#)].
- Employees who are police officers of a municipal police service. See: [[Section 4\(2\)\(d\)](#)].

- Employees employed on a farm or ranch. See: [[Section 4\(2\)\(e\)](#); [Farm and Ranch Employee Exclusions, Chapter 24\(c\)](#)].
- Employees employed in domestic work in a private dwelling. See: [[Section 4\(2\)\(f\)](#)].
- Employees employed as nurse practitioners. See: [[Labour Relations \(Regional Health Authorities Restructuring\) Amendment Act, section 2\(a\) and \(b\)](#)]

The Board certifies “**an** appropriate unit” rather than the “**most** appropriate unit”. See: [[Section 35\(1\)\(a\)](#); *AUPE 113 v. Legal Aid Society of Alberta* [1983] Alta.L.R.B. 83-002]. It is up to the applicant union to pick the unit they want to represent. They may have good reasons for not picking what the Board may think is the best unit. The Board can amend units applied for, but should only do so to avoid inappropriateness. It should not make “improvements” based only on its view of how the “best” unit might be structured.

If the Board finds a unit to be inappropriate for collective bargaining, it may vary the unit to one that is appropriate. This change can be made only if there is an appropriate unit reasonably similar to the one in the application. The Board calculates the union’s 40% initial support on the basis of the unit **applied for**. The “reasonably similar” test is to make sure the amended unit does not cast that initial support into serious doubt. See: [[Section 35\(1\)\(h\)](#); [Certification, Chapter 21\(d\)](#); *IATSE 210 v. Edmonton Symphony Society* [1990] Alta.L.R.B.R. 121].

Policy concerns include the Board’s established standard bargaining units for employees in:

- Hospitals, nursing homes and community health units. See: [[Information Bulletin #10, Bargaining Units for Hospitals and Nursing Homes](#)].
- The construction industry. See: [[Information Bulletin #11, Bargaining Units for the Building Trades; Bargaining Units in Construction, Chapter 25\(h\)](#)].
- Fire departments. See: [[Information Bulletin #9, Bargaining Unit Descriptions](#)].

These special policies exist because of specific statutory policies or because of special multi-employer bargaining structures that require uniformity to work. The Board does not depart from these standard bargaining units without compelling labour relations reasons.

In other industries, the Board reviews and decides on an appropriate unit on a case-by-case basis using its wide discretion, Board policy and past practice. For guidelines, see: [[Unit Considerations for Specific Industries, Chapter 22\(d\)](#); [Writing Unit Descriptions, Chapter 22\(g\)](#); [Trade Bargaining Units Outside Construction, Chapter 25\(m\)](#); [Bargaining Units in Construction, Chapter 25\(h\)](#)].

## COMMUNITY OF INTEREST

If employees work together under similar conditions, they likely have similar collective bargaining goals. To assess the extent of this community of interest, examine the following:

- What is the nature of work performed?
- Is there continuity or integration of the work?
- Are there similar working conditions (e.g., hours of work, employment benefits, wage/salary determination)?
- Are the skills of employees similar (e.g., qualifications, skills and training)?
- What are the geographic circumstances (e.g., one or several work sites, employees moving from one site to another)?
- Is there interdependence of employees regarding work performed?
- Is there frequent interchange of personnel between one or more sites?

## BARGAINING HISTORY

The employer may have a history of collective bargaining with the applicant union or another union(s). This history should be considered by answering the following questions:

- What has been the past history of the bargaining unit?
- Has a particular unit been viable in the past?
- Would changing the unit disrupt this (or related) bargaining relationships?

## SEPARATING WHITE- AND BLUE-COLLAR EMPLOYEES

White-collar and blue-collar workers often have different communities of interest. They often work different hours and under different conditions. In some cases, separate bargaining units for white-collar (office) and blue-collar (plant or production) employees are appropriate. Where the office group expresses a clear preference to join the plant or production employees, the Board considers their wishes and may grant a combined unit.

## AVOIDING FRAGMENTATION

Creating several bargaining units for a single employer is generally inappropriate if the work force is small. The standard units established by the Board for certain sectors are exceptions. See: [[Information Bulletin #10, Bargaining Units for Hospitals and Nursing Homes](#); [Information Bulletin #11, Bargaining Units for the Building Trades](#)]. Multiple units may lead to serial strikes, “leapfrogging” and “whip-sawing” in collective bargaining. Multiple units can be difficult and expensive to administer. They also tend to restrict employee mobility. An employer with a large work force is more able to deal with several units. The type of industry may also determine what unit is appropriate. For instance, in the construction industry, the Board certifies units as small as two employees in one craft.

## **NATURE OF EMPLOYER'S ORGANIZATION**

Consider the employer's internal organization by asking:

- What is the administrative structure (e.g., is it centralized)?
- Is there common supervision and determination of labour relations policy?
- What is the functional coherence and interdependence of the operations?
- Are there independent operating divisions or profit and loss centres?
- Are there various geographical locations for the employer's operations? See: [[Legal Aid Society of Alberta](#), above].

## **AGREEMENT OF THE PARTIES**

The parties may agree to a unit description for various reasons. The Board pays close attention to such agreements. The Board then weighs it against statutory considerations, established standard units and Board policy.

## **DESIRES OF THE EMPLOYEES**

Some employees want to associate only with certain other employees for the purposes of collective bargaining. Separating groups of employees from an all-inclusive unit on the basis of shared technical or other job expertise or because of membership in a craft is referred to as "carving out" a bargaining unit. Carve-out units can result in fragmentation. This can exclude other employees who possess similar training, skills and other common interests. Departmental units limit the unit to employees working in the same department of an employer's operation. These units can create the same problems, particularly if the employer reorganizes its structure.

Carve-out and departmental units can also result in leaving a few small portions of a workforce unorganized. These employees or "tag end" positions would be left on their own and deprived of collective bargaining rights. The Board weighs the desires of the employees to carve out a unit or establish a departmental unit with these concerns and the advantages of "all-employee" units.

## **TRADITIONAL METHODS OF UNION ORGANIZATION**

Historically, in certain industries (e.g., grocery, retail, construction, etc.) certain craft or trade units have been established. The Board generally recognizes these as appropriate. They promote labour peace and stability in those industries. For details on these craft units, see [[Unit Considerations for Specific Industries, Chapter 22\(d\)](#)]. Technological change can, however, render once appropriate units dysfunctional, and this factor must also be weighed.

## **GEOGRAPHICAL LIMITATIONS**

The presumption, for non-construction bargaining units, is that the unit covers all the employees of the employer within the province unless the unit description says otherwise.

The Board may approve bargaining units limited to a particular plant, shop, area or region. See: [[Trade Bargaining Units Outside Construction, Chapter 25\(m\)](#)]. The Board only does this after looking at the employer's operations to see whether such a limitation is appropriate in the circumstances.

Under registration, construction bargaining units cover only the territorial jurisdiction of the applicant trade union. See: [[Information Bulletin #11, Bargaining Units for the Building Trades; Bargaining Units in Construction, Chapter 25\(h\)](#)]. This limitation is presumed without being spelled out in the bargaining unit description. This is true even though registration bargaining occurs province-wide. The Board may vary this policy in the event of a joint application by two or more trade unions.