

A GUIDE FOR OPSEU MEMBERS

PSLRTA

THE PUBLIC SECTOR LABOUR RELATIONS TRANSITION ACT

S.O.1997—AMENDED 1999, 2002



OPSEU
SEFPO

Ontario Public Service
Employees Union
Syndicat des employés de la
fonction publique de l'Ontario



WHAT IS PSLRTA?

PSLRTA - the Public Sector Labour Relations Transition Act (pronounced “pizLERta”) was passed in 1997 to cover mergers, amalgamations and other restructuring in three public service sectors: municipalities and local boards, school boards and hospitals.

Often these changes bring together workers in similar bargaining units who belong to one union in one place and another in the second - say OPSEU in Hospital A and another union in Hospital B.

PSLRTA creates a process for sorting out the resulting confusion, so the merged hospital would have one union and one contract for the affected workers.

IN 2005, PSLRTA was expanded to apply not only to hospital mergers, but to mergers of health service providers and health services integration. The government has the power to extend PSLRTA coverage to other situations through regulation, as has been done for mergers in Children’s Aid Societies.

PSLRTA recognizes the much higher rate of unionization in the public service than in the private sector. Where it applies, it replaces the “successor rights” provisions in the Ontario Labour Relations Act which cover how members retain their union representation when a business changes hands.

SO, HOW DOES IT WORK?

When a merger results in members of different unions being combined into a single bargaining unit, PSLRTA dictates the process for deciding whose contract applies and which union negotiates the next one.

WHAT HAPPENS IN THE WORKPLACE?

Your present employer is the “predecessor employer” in the language of PSLRTA. The new employer created by the restructuring is the “successor employer.”

After the date that the restructuring takes effect, any bargaining taking place is suspended. The successor employer is bound by all previously existing contracts. Each collective agreement continues to apply to the employees who were previously covered by it with the predecessor employers. OPSEU members continue to work under their OPSEU contract, members of other unions continue to work under the terms of their contracts, and non-union workers remain non-union.

Obviously, this confusing situation cannot continue for very long with employees doing similar work having different wages, benefits, etc.

New bargaining unit(s) have to be defined, and which union(s) will represent the employees has to be determined.

THE ONTARIO LABOUR RELATIONS BOARD ADMINISTERS THE PROCESS.

In this situation, the employer and all the unions involved know what is happening. Any of the unions, or often the employer, makes an application to the Ontario Labour Relations Board. This application asks the Labour Board to determine the number and description of the bargaining unit(s) that are affected, and which - if any - union should represent the employees.

At this point, all the other parties get involved - the employer and any affected unions. All can file their responses to the application. They can agree with the information in the application or they can challenge some or all of it.

Employees without union representation have no voice in this process. The employer speaks for them.

THE ISSUES THAT HAVE TO BE RESOLVED ARE:

- Does the PSLRTA apply?
- How many bargaining units are there in the new combined operation?
- How are those bargaining units structured?
- Which unions are parties to the process?
- Which unions will be options on the ballot?
- Will there be a ballot option for “no union”?
- Which positions fall within which bargaining units?

- Who is eligible to vote in which election? The employer provides the Labour Board with a list of employees as the basis for the voters' list. Any of the parties to the process can challenge any of the names on that list.
- What access will the union(s) have to the employees for whom they are seeking bargaining rights? This could be workplace meetings, home addresses, bulletin board space or other means of communication.
- When and where will the voting take place?

A Labour Relations Officer from the Labour Board meets with the employer and the union(s) to mediate discussions and help the parties come to agreement on these issues.

If they can't agree, the Labour Board holds a hearing and the parties make submissions about the matters that remain in dispute. (This can be done through written submissions rather than a formal hearing.)

In the final analysis, the Labour Board issues its decision on how the process will unfold.

The employer is required to post in the workplace all notices that the Labour Board issues, so employees are kept informed of what is happening.

HOW DOES THE VOTE WORK?

- The Labour Board oversees the voting. A Labour Relations Officer conducts the poll.
- The voting is done by secret ballot.
- There can be no interference with the process or coercion or intimidation of voters.
- The vote often takes place at the workplace and during regular working hours.
- There are no provisions for advance polls or proxy voting.
- Any union with members involved in the process may choose to be on the ballot, even though it represents a minority of the bargaining unit.
- Each of the affected parties can have a scrutineer at the poll, who will ensure that the vote is conducted properly and that only eligible voters cast ballots.
- The ballot asks you to select which union you wish to represent you. If more than 40 per cent of the affected workers were non-union, “no union” is an option on the ballot.
- Ballots of any employees whose eligibility to vote remains in question are segregated in a double-blind envelope, to be counted later.
- The decision will be determined by a simple majority - more than 50 per cent of ballots cast.
- If there are so many segregated ballots that the outcome of the vote could not be determined without counting them, the ballot boxes may be sealed until the Labour Board can rule on their eligibility.
- There might need to be run-off votes if no ballot option receives a clear majority on the first ballot. The option with the lowest number of votes would be removed for the subsequent ballot.
- Throughout the process, the Labour Board will hold meetings with the employer(s) and affected union(s) and issue rulings to resolve any disputes that arise.

WHAT HAPPENS AFTER THE VOTE?

Once the Labour Board determines that one union has a clear majority in the voting, that union is declared the bargaining agent for the entire bargaining unit. That union is certified to represent the group.

If more than one collective agreement applies in the bargaining unit, the provisions of each contract are deemed to form part of a single “composite agreement” and they continue to apply to the same employees as before the vote. So the OPSEU members continue under the OPSEU clauses and the other union members continue under their contract language as before until a new collective agreement is negotiated.

Some areas of the collective agreement are considered to be “common provisions” under PSLRTA. For these areas, the winning union will negotiate contract language with the employer, based on the language of the existing collective agreements.



THE COMMON PROVISIONS ARE:

- **Seniority** – The union that wins the vote will negotiate common seniority language with the employer to cover everyone in the bargaining unit. If they cannot agree, the Labour Board will rule on the language. The seniority of employees is “dovetailed” so employees who started on the same day with different predecessor employers and had similar work histories would have the same seniority with the new employer. The seniority language can be modified as long as the changes respect the principle of a common definition of seniority for everyone in the bargaining unit.
- **Postings** – Often, the winning union’s language covering posting of vacancies and new positions, promotions, transfers, layoffs and recalls applies to everyone in the new merged bargaining unit. However, this can be negotiated with the employer.
- **Grievances** – A common grievance procedure takes effect for the entire bargaining unit.
- The employer and the winning union can also agree that other provisions of the contract should apply to all employees.

MOVING FORWARD TOGETHER

Previously non-union employees gain the same seniority, representation rights and grievance procedure that apply across the bargaining unit.

If the non-union option wins the vote, all outstanding grievances, representation rights and contract provisions cease to apply.

The successful union will shortly serve the employer with notice to bargain, and prepare to negotiate a new contract which will cover all the employees in the merged bargaining unit.

It may sound complicated, but OPSEU has more experience with PSLRTA votes than any other union. OPSEU's professional Organizing Representatives can assist and support you through this process.

For more information, contact:

OPSEU Organizing Unit: **1-800-268-7376**

You can read the complete Act at:

www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_97p21b_e.htm





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www.joinopseu.org 1-800-268-7376