

Ontario Labour Relations Board



The Ontario Labour Relations Board (OLRB) is an independent, quasi-judicial tribunal which mediates and adjudicates a variety of employment and labour relations related matters under various Ontario statutes.

Annual Report

2019-2020

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Chair's Message

As I write this, it has been more than two months since Ontario declared a state of emergency, more than two months since the Board sent its employees home from its offices in downtown Toronto and more than two months since the Board began cancelling all in-person hearings and mediations, which now remain cancelled at least until the end of July 2020. Although this annual report deals with the 2019-2020 fiscal period and the pandemic did not directly impact the Board until the last few weeks of that period, I cannot help but start this message without commenting on the remarkable efforts of everyone at the Board during the pandemic.

Quite simply, the Board has continued to operate and function throughout the pandemic. After initially scrambling and struggling to equip and set up a staff that largely had never been equipped or required to work remotely, although not yet completely at pre-pandemic capacity, the Board continues to receive and process all applications under the many statutes over which it has jurisdiction. Notwithstanding some initial controversy, the Board continues to receive and process certification and termination applications under *the Labour Relations Act* - successfully conducting representation votes electronically sometimes under very trying circumstances but yet obtaining high participation rates, sometimes even reaching 100%. Applications under other statutes such as *the Employment Standards Act* also continue to be filed and processed. Perhaps most significantly, there have been, at the time of this writing, more than 30 appeals (many on an urgent basis) under the *Occupational Health and Safety Act* and *the Labour Relations Act* dealing with COVID-19 issues, including both an unlawful strike and lockout application. Although no in-person hearings are taking place, the Board continues to deal with written submissions, conduct teleconferences and rapidly expands both its capacity and the regularity of video hearings. Decisions continue to be issued. Cancelled in-person hearings are continuously being reviewed and the parties consulted to determine how these matters can still be advanced during the pandemic. Mediations have continued by phone and email. Procedures, rules, policies and forms are continuously being revised or created to allow the Board to continue to operate in this rapidly changing environment and all the while, many of us are trying to master new technology, for some for the first time.

In every one of these annual statements, I have both marvelled at and expressed my gratitude for the dedication and efforts of all the staff of the Board - knowledgeable and discerning adjudicators, perceptive and astute solicitors, talented and effective mediators, committed and agile administrators and an extremely hardworking and diligent support staff. If there was ever any doubt about the accuracy of these observations, they have been unquestionably ended by the virtually herculean efforts of all those who work at the Board during the pandemic. These words alone are insufficient to express my appreciation of them.

2019-2020 was again a very busy year for the Board, the details of which are extensively elaborated and analyzed in the pages of this report that follow. The number of new cases was slightly down in almost all categories from the preceding year - perhaps not surprisingly since this fiscal period only reflects half of the triennial construction industry "open period" and is the first year since the repeal of a number of statutory provisions and procedures that had occupied significant Board time in preceding years (e.g. applications for employee lists or restructuring of bargaining units). However the number of new applications filed in 2019/2020 was still, with the exception of the last fiscal period, the most new applications the Board has received in the last 5 years.

This year also saw the resignation of a number of adjudicators (some of whom were long serving) - Mary Anne McKellar, Gita Anand, Owen Gray and Edward McDermott - and the departure of some others upon the expiration of their terms of appointment - Diane Gee, Eli Gedalof and Elizabeth McIntyre and some member sidepersons, John Sullens, Ron Martin, Edward Chudak, Thomas Collins and Robert Lechien. They will all be missed. The Province of Ontario and the Board are fortunate that people of such caliber are willing to give of their time to the Board. The Board also welcomed as full-time Vice Chairs Michael McCrory and Peigi Ross and as part-time Vice-Chairs Leonard Marvy, Robert Salisbury and Michael Hancock - all experienced with significant

labour and employment expertise. I am certain they will continue the tradition of excellence established by their predecessors. There was also a change in the Solicitors office with the resignation of Andrea Bowker, who will be sorely missed but who was well replaced by Lindsay Lawrence, a highly regarded veteran labour law practitioner.

I conclude this message as I have concluded each one I have written before. I encourage everyone to contact the Board (and me) with their comments, concerns or suggestions. I cannot promise that we will agree, but we will certainly listen.

Bernard Fishbein
Chair

Overview

The Ontario Labour Relations Board is an independent adjudicative agency of the Government of Ontario. As a tribunal operating at arm's length from the Ministry of Labour, the OLRB mediates and decides cases under more than 20 different workplace and employment-related laws. In addition to the primary responsibility that comes from its founding statute, the *Labour Relations Act, 1995*, a significant portion of the Board's work falls under the *Employment Standards Act, 2000* and the *Occupational Health and Safety Act*, as is described in more detail below.

Overall, the Board has varying degrees of jurisdiction assigned to it under the following statutes:

- *Ambulance Services Collective Bargaining Act, 2001*, S.O. 2001, c.10
- *Colleges Collective Bargaining Act, 2008* S.O. 1990. c.5
- *Crown Employees Collective Bargaining Act, 1993*, S.O. 1993, c.38
- *Education Act*, R.S.O. 1990, c.E.2
- *Employment Protection for Foreign Nationals Act, 2009*, S.O. 2009, c.32
- *Employment Standards Act, 2000*, S.O. 2000, c.41
- *Environmental Bill of Rights, 1993*, S.O. 1993, c.28
- *Environmental Protection Act*, R.S.O. 1990, c.E.19, which gives the Board jurisdiction under the following legislation:
 - *Environmental Assessment Act*, R.S.O. 1990, c.E.18
 - *Environmental Protection Act*, R.S.O. 1990, c.E.19
 - *Fisheries Act*, R.S.C. 1985, c.F-14
 - *Nutrient Management Act, 2002*, S.O. 2002, c. 4
 - *Ontario Water Resources Act*, R.S.O. 1990, c.O.40
 - *Pesticides Act*, R.S.O. 1990, c.P.11
 - *Safe Drinking Water Act, 2002*, S.O. 2002, c.32
 - *Toxics Reduction Act, 2009*, S.O. 2009, c.19
- *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4
- *Government Contract Wages Act, 2018*, S.O., c.92
- *Hospital Labour Disputes Arbitration Act*, R.S.O. 1990, c.H.14
- *Labour Relations Act, 1995*, S.O. 1995, c.1
- *Local Health System Integration Act, 2006*, S.O. 2006, c.4
- *Long Term Care Homes Act, 2007*, S.O. 2007, c.8
- *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1
- *Ontario College of Trades and Apprenticeship Act, 2009*, S.O. 2009, c. 22
- *Ontario Provincial Police Collective Bargaining Act, 2006*, S.O. 2006, c.35, Sch. B
- *Protecting Child Performers Act, 2015*, S.O. 2015, c.2
- *Public Inquiries Act, 2009*, S.O. 2009, c. 33, Sch. 6
- *Public Sector Dispute Resolution Act, 1997*, S.O. 1997, c.21, Schedule A
- *Public Sector Labour Relations Transition Act, 1997*, S.O. 1997, c. 21, Schedule B
- *Public Service of Ontario Act, 2006*, S.O. 2006, c.35, Schedule A
- *Retirement Homes Act, 2010*, S.O. 2010, c.11
- *School Boards Collective Bargaining Act, 2014*, S.O. 2014, c.5
- *Smoke-Free Ontario Act*, S.O. 1994, c.10
- *Tribunal Adjudicative Records Act 2019*, S.O. 2019, c. 7, Sched. 60

As an independent adjudicative tribunal, the Board's mandate is to mediate and adjudicate a broad variety of workplace disputes. Its staff are appointed under the *Public Service of Ontario Act, 2006*. Direction for its mission, mandate, service standards, governance and accountability are set out in the *Adjudicative Tribunal Accountability, Governance and Appointments Act, 2009*.

The Board is composed of a Chair, an Alternate Chair, Vice-Chairs, Board Members, a complement of Mediators, a Solicitors' Office and a Registrar's office. These individuals, aided by the Board's support staff, draw upon specialized expertise in the labour and employment field to ensure the settlement and adjudication of cases before the Board. The Board strives to keep its procedures informal, expeditious and fair. However, it is important to recognize that legal rights are at issue, the statutory frameworks are sometimes complex, and parties are encouraged to seek independent legal advice, if not legal representation, to assist them in Board proceedings.

The Board is entitled to determine its own practices and procedures and has the authority to make rules and forms governing its practices and the conduct of those appearing before it. The Board's Rules, Forms and Information Bulletins are available on its website at www.olrb.gov.on.ca or from the Board's offices at 505 University Avenue, 2nd Floor, Toronto, Ontario, M5G 2P1.

The Board plays a fundamental role in the labour relations, employment standards, and health and safety regimes in Ontario. Board decisions are based on the evidence presented and submissions received, and on the adjudicator's interpretation of the facts in dispute, relevant legislation and jurisprudence. In keeping with the Ministry of Labour's overarching principles, the Board encourages harmonious relations among employers, employees and trade unions. It deals as expeditiously and fairly as reasonably possible in processing, settling or adjudicating all matters that come before it.

The Board's Principal Statutes

Labour Relations Act, 1995

The Ontario Labour Relations Board was established by section 2 of the *Labour Relations Act, 1948* and is continued by subsection 110(1) of the current *Labour Relations Act, 1995*.

The Board's work under the LRA is guided by the legislative policy set out in section 2 of the Act:

2. The following are the purposes of the Act:

1. To facilitate collective bargaining between employers and trade unions that are the freely designated representatives of the employees.
2. To recognize the importance of workplace parties adapting to change.
3. To promote flexibility, productivity and employee involvement in the workplace.
4. To encourage communication between employers and employees in the workplace.
5. To recognize the importance of economic growth as the foundation for mutually beneficial relations amongst employers, employees and trade unions.
6. To encourage cooperative participation of employers and trade unions in resolving workplace disputes.
7. To promote the expeditious resolution of workplace disputes.

With this policy as a basis, the Act confers on the Board the authority over many significant aspects of labour relations including the certification of unions to represent employees, termination of bargaining rights, the handling of unfair labour practices (including a union's duty of fair representation or fair referral of its members), successor bargaining rights, essential services, strikes, lock-outs, first contract direction, jurisdictional disputes, the relationship between parent/national/international unions and their subordinates, and a range of issues arising in the construction industry, including the arbitration of grievances.

Employment Standards Act, 2000

The ESA confers authority on the Board to hear applications for review of decisions made by Employment Standards Officers. Claims filed under the ESA with the Ministry of Labour (for wages, overtime, termination or severance pay, other violations of the Act) are investigated by Employment Standards Officers who direct payment of outstanding monies, issue orders for wages or compensation, or refuse to issue orders. Appeals of Employment Standards Officers' decisions or refusals to make orders are handled by the Board.

Mediation is attempted in almost all ESA matters before the Board. Where mediation is unsuccessful, the Board usually conducts what is in essence a fresh hearing of the workplace dispute. Parties to the dispute are expected to attend the hearing with their evidence and witnesses and be able to persuade the Board of the correctness of their case.

Occupational Health and Safety Act

The OHSA is designed to ensure that every workplace is safe and every worker is protected against injury or harm. Enforcement of the OHSA is conducted by health and safety inspectors, who may enter workplaces to inspect or investigate working conditions, equipment and compliance with the Act. Orders or decisions of inspectors can be appealed to the OLRB.

There are also protections for workers who exercise their rights under the OHSA and are disciplined or discharged for doing so (reprisals). These applications can be brought directly to the Board or referred by a health and safety inspector.

School Boards Collective Bargaining Act, 2014

This legislation sets out the structure for collective bargaining in the education sector. The parties bargain their collective agreement on two tiers: central issues at a “central table”, where the Crown is a party, and local issues at a “local table”, where it is not. In the event the parties are unable to agree to this central/local split, disputes are decided by the Board upon the application of either party or the Crown, as well as any issues arising from the parties’ agreement or Board order. In addition, the Board may be asked to decide whether a matter that is the subject of central bargaining may prejudicially affect constitutionally-protected, denominational or linguistic rights and can exclude the issue from central bargaining, make it the subject of local bargaining and issue other orders as the Board determines are appropriate in the circumstances. The Crown or a party to central bargaining may also apply to the Board to decide if a local term in a collective agreement conflicts with or is inconsistent with a central term in the agreement.

Crown Employees Collective Bargaining Act

Any employer of Crown employees and the bargaining agent for Crown employees must make an essential services agreement when negotiating a collective agreement and prior to any strike or lockout being lawful. Either party may apply to the Ontario Labour Relations Board to determine any matter that is not resolved including the matters to be included in the essential services agreement and its terms. The Board may consult with the parties and/or inquire into any matter raised by the application. The Board also has jurisdiction under this Act to enforce or amend the agreement upon application, as well as to make a declaration that an agreement has prevented meaningful bargaining and to amend the number of positions or employees designated in the agreement.

Public Sector Labour Relations Transition Act

The *Public Sector Labour Relations Act* (PSLRTA) was passed in 1997 to cover mergers, amalgamations and other restructuring in three public sectors: municipalities and local boards, school boards and hospitals. In 2005, *PSLRTA* was expanded to include mergers of health services providers and health services integrations. The majority of applications before the OLRB since 2005 have involved the hospital sector and institutions that might fall under this expanded definition. The OLRB, upon application, holds a consultation with the affected unions and employers to determine if *PSLRTA* applies and what bargaining units and bargaining agents in the new workplace are appropriate. The Board occasionally directs representation votes to determine the successor bargaining agents.

The *Protecting What Matters Most Act* (“*Budget Measures Act*”) received Royal Assent on May 29, 2019. Schedule 53 of the *Budget Measures Act* repealed section 9 of *PSLRTA*. As a result, effective May 29, 2019, applications may no longer be made to the Board to request the application of *PSLRTA* where there is a health integration or where it is asserted that the facts give rise to a health integration.

Other Applications

The Board receives a smaller number of applications under the other legislation that we administer. Generally speaking, these are treated in a manner analogous to how the Board deals with the applications already described.

Other Tribunals

The Board also has administrative responsibility for a number of other tribunals whose reporting structures and activities may be described in other Annual Reports. The Board administers the Education Relations Commission (“ERC”) which is an agency of the Ministry of Education. The Board’s Chair is the Chair of the ERC and several Board Vice-Chairs sit as ERC Members. A Vice-Chair of the Board is the Presiding Officer of the Pay Equity Hearings Tribunal. Several Board Vice-Chairs and Members are also cross-appointed to the PEHT. Support services for all of these bodies are under the administration of the Director/Registrar.

Overview of Board Processes

Almost all applications that are filed with the Board are first assigned to a Mediator. The Mediator is given an opportunity to contact or meet with the parties to explore the possibility of settlement. Parties are encouraged to mediate matters. Practically speaking, mediation is a less formal and often less costly process than a hearing. The settlement of a workplace dispute, worked out by the parties with the assistance of a mediator, gives the parties an agreement they can both live with and more responsibility and ownership of the agreed-to conditions. In 2019-2020, roughly 90% of all disputes coming before the Board were resolved, including by mediation, prior to litigating the matter at a final hearing.

If an application cannot be mediated successfully, the matter is forwarded to the Registrar to review and schedule a consultation or hearing, where one has not already been scheduled. Some cases are sent for preliminary review to consider whether there is a prima facie case objection or preliminary matter which needs to be decided before scheduling. This may also be done before mediation where appropriate for example, where it appears the application may have been filed in the wrong jurisdiction.

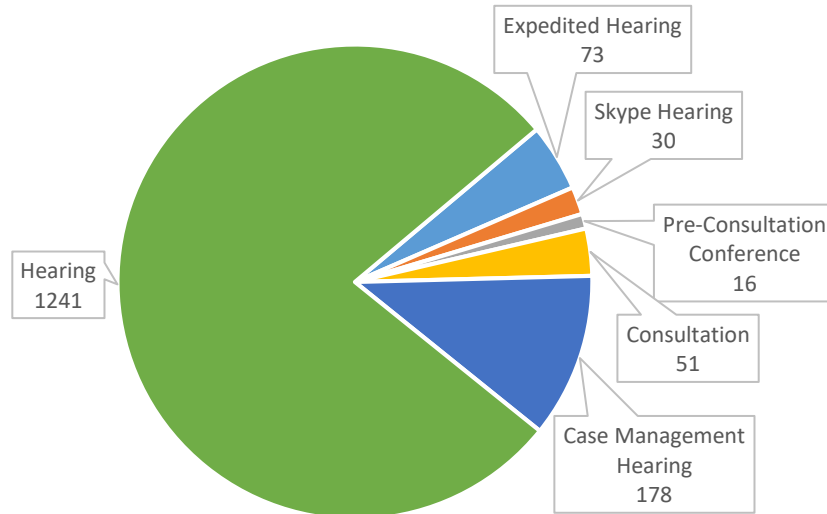
A consultation is a less formal type of adjudication and may take on different forms. Primarily, it is a quick and pointed hearing with the parties, with the Vice-Chair (adjudicator) taking greater control over how the proceeding is conducted. Often, there is no need for sworn testimony. The Vice-Chair may ask questions of the parties or may direct that the questioning be limited in scope. A hearing is a formal adjudication, with opening statements, the examination and cross-examination of witnesses, presentation of relevant documentary evidence, and submission of final arguments.

To ensure an efficient and expeditious processing of cases, several types of cases are scheduled for a hearing or consultation when they are initially filed with the Board and the hearing date is sent out together with the Board's confirmation of filing, namely applications for certification/termination in the non-construction sector, unfair labour practices involving the discipline or discharge of alleged union supporters, construction industry grievances, reprisal complaints under OHSA, first contract direction applications. Case Management Hearings are scheduled upon application in all construction certification applications or in some other cases where the parties may request it or the Board deems it appropriate. Pre-hearing consultations and consultations for jurisdictional disputes in the construction industry are scheduled at the time the Board sends out its confirmation of filing.

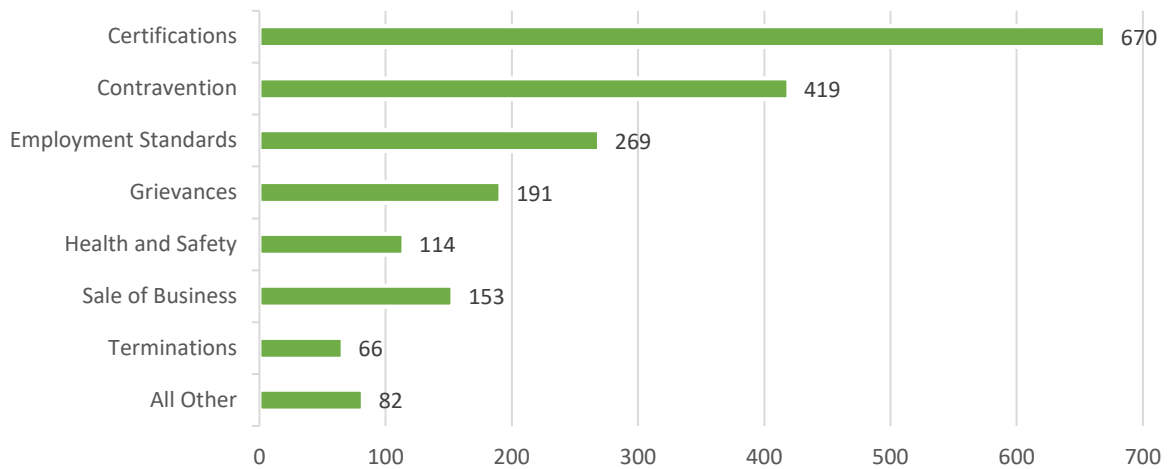
During the construction open-period, hearings are set at the time of confirmation of the filing of each application ("expedited hearing"). However, this is not the only hearing which is scheduled on an expedited basis. Applications for strike/lockout are heard within a day or two, as circumstances require, and hearings into applications for interim orders may be held within four to six days. Cases involving the discharge of employees are given priority scheduling.

Consultations, case management hearings and hearings (but not mediations) are open to the public, save for exceptional circumstances. Hearings are not recorded and no transcripts are produced. The Board issues written decisions that are sent to the parties and become public documents available for searching on public databases.

Types of Hearing Events Scheduled



Hearings Held - By Major Case Type



Organization

Vice Chairs, Members and Staff

The OLRB's operations and staff can be broadly divided into: Adjudication, Administration, Mediation Services and Legal Services.

The Board's adjudicators (the Chair, Alternate Chair, Vice Chairs and Board Members) are all appointed by the Lieutenant Governor in Council as Order in Council appointments for a fixed term. A chart of the OICs working in 2019/2020 and their appointment terms is attached at Appendix A.

The administrative, mediation and legal staff are public servants appointed under Part III of the Public Service of Ontario Act, 2006. The Board's Organizational Chart is attached at Appendix B.

Office of the Director and Registrar

The Director/Registrar is the chief administrative officer of the Board. She, along with the Deputy Director / Registrar, is responsible for the overall administration of the Board's business operations, mediation and adjudication. The Director/Registrar, along with the Deputy Director/Registrar, oversees the effective processing and scheduling of each case and communicates with the parties in matters relating to the mediation of cases, scheduling of hearings or on particular issues in the processing of any given case. Every application received by the Board enters the system through the Director/Registrar's office.

Manager of Administration

The Manager of Administration is responsible for the efficient operation of the Board through the effective coordination of the procurement and budget functions, human resources functions, client services, information technology, and the provision of administrative direction for all shared/common services.

Library Services

Comprised of the former Ontario Labour Relations Board Library, the Workplace Safety and Insurance Appeals Tribunal Library and the Pay Equity Commission Library, the Ontario Workplace Tribunals Library is situated at 505 University Avenue, Toronto on the 7th floor.

Library holdings related to the OLRB include all reported OLRB decisions from 1944 to date, all judicial reviews of OLRB decisions from 1947 to date, all bargaining unit certificates issued by the OLRB from 1962 forward. In addition, the Library has a collection of all Employment Standards review decisions from 1970 to date and all Occupational Health and Safety appeal decisions from 1980 to date. Textbooks, journals and case reports in the areas of labour, administrative and constitutional law are also held.

Mediation Services

The Board is a pioneer in the area of alternative dispute resolution. The Manager, Mediation Services and Senior Mediators/Mediators ("Mediators") are responsible for mediating settlements in almost all of the Board's cases. In addition to settling cases, Mediators assist parties in identifying issues and streamlining the cases that are adjudicated in order to avoid unnecessary litigation. They also, along with the Board's Vote Officers, carry out the Board's pre-and post-vote mediation program and conduct representation and final offer votes.

Information Technology Support

Services in IT were centralized within the Ministry of Labour and are now provided to the Board by a central help desk. Business Support Specialists at the Board maintain the systems, website and reporting services and work on major IT projects within the Board.

Legal Services

Legal services to the Board are provided by the Solicitors' Office, which consists of two Board Solicitors. The Solicitors provide legal research, advice, opinions and memoranda to the Chair, Vice-Chairs, Board Members, Mediators and administrative staff.

They are extensively involved in changes to the Board's Rules of Procedure and forms and contribute to the continuing education of staff. The Solicitors are the Board's media spokespersons and handle all inquiries, investigations and complaints under freedom of information or human rights legislation and from Ombudsman Ontario. The Board's Solicitors also represent the Board in court proceedings, including applications for judicial review.

Key Activities

The Board can be described as engaging in two key activities: Mediation and Adjudication, generally but not exclusively in the realm of Labour Relations, Employment Standards, and Occupational Health and Safety. These two core functions are the foundation for the Board's vision of maintaining a reputation for adjudicative and dispute resolution excellence.

The Board's goal is to provide efficient, fair, accessible and modernized services in all areas including, case processing, mediation, votes and adjudication, in a fiscally responsible manner. In addition to closely monitoring files and processes internally, it uses performance measures and targets to track and focus on outcomes. Performance measures and targets may be revised or developed in the event of legislative changes or a change to Board processes. This may require changes to the Board's electronic case management system to allow for a more refined analysis. Additional measures and targets were developed in 2019/2020 and are included below.

A. Achievement of Performance Measures

1. Program Effectiveness Measures

i. Meeting Legislated timelines

2019/2020 Commitment

- 90% industrial certification votes held within 5-7 days
- 95% held within 10 days
- 5% or less held within more than 10 days

2019/2020 Achievement

- 97.4% of industrial certification votes held within 5-7 days
- 97.7% held within 10 days
- 2% held within more than 10 days

ii. Efficient Case Processing

2019/2020 Commitment

- 80% of new files opened within two days after an application is filed in accordance with the Board's Rules of Procedure
- 80% of confirmations of filing of applications sent to parties within four days of application filed in accordance with the Board's Rules of Procedure

2019/2020 Achievement

- 96.6% of new files opened within two days after an application is filed in accordance with the Board's Rules of Procedure
- 89.6% of confirmation of filings of applications sent to parties within four days of application filed in accordance with the Board's Rules of Procedure

iii. Efficient Mediation and Results

Mediation Assignment

2019/2020 Commitment

- 80% of mediator assignments are made within three days after an application is filed in accordance with the Board's Rules of Procedure

2019/2020 Achievement

- 85.9% of mediator assignments made within three business days after an application is filed in accordance with the Board's Rules of Procedure

Mediation – Percentage of Cases Resolved without Final Hearing

2019/2020 Commitment

- 80-85% of cases settled without litigation at the Board
- LRA cases: 85%
- ESA (appeals): 75%
- OHSa (appeals): 75%
- OHSa (reprisal complaints): 75%

2019/2020 Achievement

- 90.1% of all cases settled without final litigation
- LRA cases: 89.6%
- ESA (appeals) cases: 89.9%
- OHSa (appeals) cases: 94.6%
- OHSa (reprisal complaints) cases: 94.6%

iv. Adjudication- Judicial Review

Percentage of decisions upheld:

- 2019/2020 Commitment: 90-100%
- 2019/2020 Achievement: 100%

v. Fiscal Measures:

- 2019/2020 Commitments: Less than 2% variance between year-end allocation and expenditure.
- 2019/2020 Achievements: Actual variance: 0.1%
Approved budget: \$13,346.3M
Actual expenditure: \$13.326.9M

2. Time to Dispose of Cases

The Board continues to analyze and track the time to dispose of cases. 52% of cases were completed within approximately 90 calendar days of receipt of application and 68% were completed within five months (Figure 21). This compares with 48.9% and 68% respectively in 2018/2019 and 41.3% and 56% in 2017/2018. However, this is an overall average and an analysis of various different case types shows that the time to dispose of cases varies considerably depending on the type and complexity of the case. For example, 74% of reprisal cases

under the *Occupational Health and Safety Act* were closed within three months and 88% within six months. The Board has undertaken further analysis of the data in this regard. (See also Figures 22-28)

3. Ombudsman Review

The Ontario Ombudsman has the authority to investigate complaints about the Ontario Government and its agencies, including the Board. There were no new or outstanding investigations in 2019/2020.

B. Electronic Voting

The Board conducted its first electronic vote in November 2017 and conducted a total of 2 in the 2017/2018 fiscal period. This increased in 2018/2019, when the Board conducted 12 certification votes, 1 termination vote and 1 last offer vote by electronic balloting (with a telephone ballot option). The decision to hold the votes electronically is made, sometimes over the objection of the parties, for one or more of a number of reasons, including, the workplaces were in disparate geographic locations, the shifts were 24 hours long, the employees had no dedicated workplace and/or the parties requested or agreed to it. More than 750 voters used the system, which was a 78.7% voter turnout on average.

In 2019, the Board sought input on electronic voting from affected stakeholders and the public. A Background Paper which summarized the Board's experience with electronic votes and invited submissions on the process was circulated. The Board then issued a Notice on Electronic Voting which formalized and explained its processes, taking into account input received from its community, among other things. The Board continued to expand its usage of electronic votes in appropriate circumstances. After 14 electronic votes in 2018/2019, the Board conducted 40 during the 2019-20 fiscal period. These votes continued to be ordered in cases where the parties requested it or where the nature of the workplace made electronic voting a more efficient and effective method of allowing employees to vote. During this fiscal period, more than 5300 voters cast ballots in electronic votes, which resulted in an average turnout in those votes of 88%. Board vote officers and mediators continued to staff the Help Desk for votes where required.

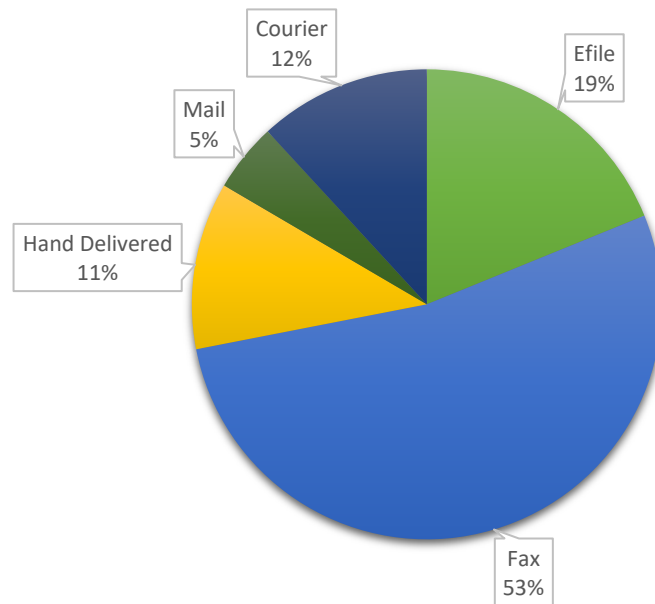
In March 2020, the Board was required to transition to conducting votes exclusively by way of electronic voting due to the COVID 19 pandemic and notified its community of this change. The Board was able to continue to conduct votes without interruption as a result, with minimal delays in the timing of votes.

C. IT Initiatives and Electronic Filing System

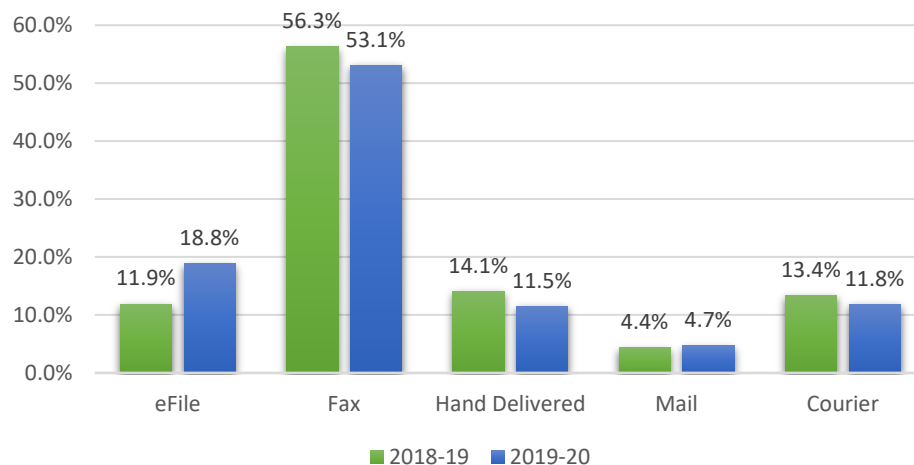
In late 2017, the Board launched its e-filing project with four forms. In 2018/2019, the Board concluded its e-filing project and all planned forms were made available electronically on the Board's website and are hosted by Ontario Shared Services on its electronic system. A total of 87 forms, in both French and English, are currently available to be submitted electronically. The e-filing project necessitated the modernization of the Board's forms, Notices, Information Bulletins, and Rules of Procedure. In November 2018, the Board completed the electronic filing of grievance referrals in the construction industry and Notices of Intend to Defend, both of which require online payment of fees.

In 2019/2020, the Board received 4729 electronically filed forms and submissions. This represents almost 19% of the total number of forms and submissions filed with the Board.

Method of Filing - Forms and Submissions



Method of Filing - 2018 vs 2019

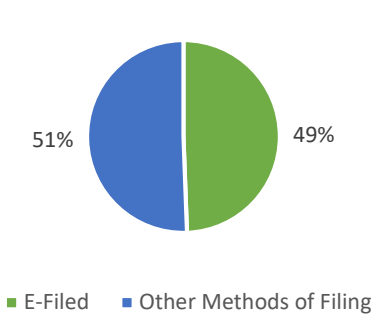


There was an increase in SKYPE hearings held in 2019/2020 to 30 from the 12 which were held in 2018/2019. The Board began exploring other methods for videoconferencing in 2019/2020 which would meet the Board's needs. Among other things, technology must address the fact that the Board's hearings almost always have more than one party present. Due to the pandemic, on March 16, 2020, in-person hearings were cancelled for the rest of that month. The Board immediately began reviewing all cancelled in-person hearings to ensure the hearing could continue using another method. The Board was able to offer hearings by written submissions and by teleconference and began developing a new approach to video hearings.

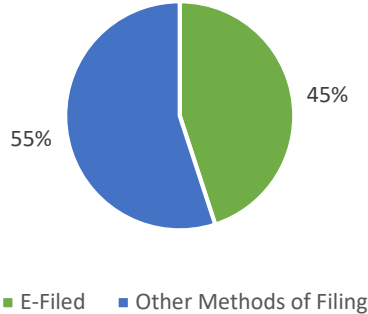
The Board also commenced a project to replace its older website with a new modernized website. Technology has advanced considerably since the current website was created. The Board is working toward a more user-friendly and accessible website for the public and the Board's stakeholders as well as an updated look. The Covid-19 pandemic required IT staff to put the website project, near completion, on hold while they worked to ensure the Board's operations would continue. Examples of new IT initiatives due to the pandemic which began in March 2020 include: all staff, management and OICs needed to be equipped to work remotely, electronic filing became mandatory and was closely

monitored, new forms and website notices were posted to notify the public of changes to the Board’s processes due to the pandemic and new methods of videoconferencing were investigated to ensure hearings could continue while in-person hearings were cancelled. Progress will continue on the Board’s website in 2020/2021, consistent with the availability of time and resources, and additional IT measures taken during the pandemic will be reported in 2020/2021.

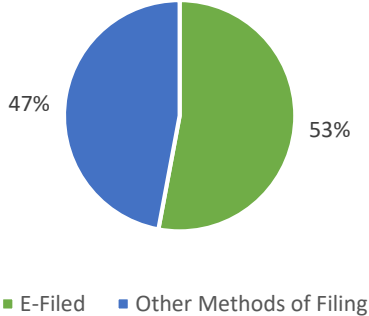
Employment Standards - Filing Method



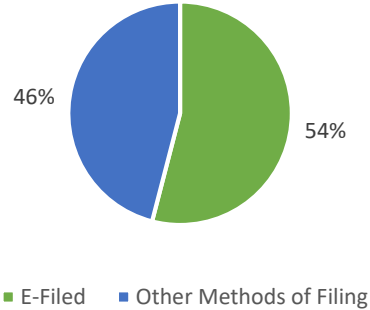
Unlawful Reprisals - Filing Method



Construction Industry Grievances Filing Method



Duty of Fair Representation Filing Method



Caseload Processing

Case Numbers and Disposition

Overall, the Board received 3571 new applications this year. This number is lower than last year by 359 cases, but with that exception, it is the highest number of new applications filed in 5 years. This is due in part to the repeal of Bill 148 under which there were 116 cases in 2018/2019 and possibly the start of the pandemic in March 2020. 1643 additional cases remained open from previous years and 107 cases were re-opened*, for a total number of files processed before the Board this year of 5321. (Figures 1 and 2)

Of the 5321 files before the Board, 3804 were disposed of** (with/without a hearing), for example, by final decision, settlement, withdrawal or abandonment and closed. Consequently, 1517 cases were carried into 2020/2021. This number includes 264 cases which have been adjourned sine die, so there are 1253 active files pending. The number of cases carried over was down 126 cases from the number carried over in 2018/2019. The Board continues to work toward its goal to increase the number of cases disposed of in a year, and to that end, looks for more efficient ways to case manage, schedule, and deploy our resources.

Of disposed cases, 52% were completed within approximately 90 calendar days of application receipt (up almost 3% from the previous year) and 68% were completed within five months (Figure 21).

The following pages and charts deal with the processing of cases by individual category and in greater detail.

*Files are re-opened for various reasons including when an application for reconsideration is received or a dispute arises regarding the implementation of a settlement. The category of “re-opened” files is a result of the case management system.

**In Figure 1, the Total Closed column reflects the activity on a file: a file may have been closed more than once. In Figure 3, the Total Closed column reflects the final disposition of an individual case before hearing. Each unique case is only recorded as closed once.

Total Applications Received, Disposed and Pending

	Total Received	Re-Opened	Pending April 1, 2019	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Work Assignment Altered	Not Processed	Pending	Sine Die	Pending March 31, 2020	Total Pending + Sine Die
Totals:	3,571	107	1,643	5,321	3,804	783	423	190	2,293	6	1	22	86	264	1,253	1,517
Accreditation (Construction)	2	2	3	7	5	4	0	0	1	0	0	0	0	0	2	2
Certification	617	27	260	904	674	469	70	4	126	0	0	1	4	13	217	230
Certification (Construction - Card Based)	251	8	155	414	292	218	12	2	59	0	0	1	0	6	116	122
Certification (Construction - Open Period)	27	0	20	47	35	23	8	0	3	0	0	0	1	1	11	12
Certification (Construction)	29	1	26	56	28	12	5	0	9	0	0	0	2	1	27	28
Certification (Industrial)	310	17	59	386	318	215	45	2	55	0	0	0	1	5	63	68
Certification (Specified Industries)	0	1	0	1	1	1	0	0	0	0	0	0	0	0	0	0
Colleges Collective Bargaining Act	3	0	3	6	3	0	1	0	2	0	0	0	0	0	3	3
Certification	0	0	1	1	0	0	0	0	0	0	0	0	0	0	1	1
College Vote	0	0	1	1	1	0	0	0	1	0	0	0	0	0	0	0
Violation of Colleges Collective Bargaining Act	3	0	1	4	2	0	1	0	1	0	0	0	0	0	2	2
Construction Grievance	679	32	308	1019	704	120	8	6	500	0	0	1	69	152	163	315
Employment Standards	1067	10	425	1502	1168	65	139	115	830	2	0	17	0	9	325	334
Employment Standards - Appeal (Director)	50	0	21	71	47	3	11	12	19	0	0	2	0	1	23	24
Employment Standards - Appeal (Employee)	355	1	119	475	366	24	31	26	283	0	0	2	0	2	107	109
Employment Standards - Appeal (Employer)	661	9	285	955	754	38	97	77	527	2	0	13	0	6	195	201
Referral under Employment Standards Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0	0
Essential Services	4	0	1	5	4	1	0	0	3	0	0	0	0	1	0	1
Essential Services Agreement - Ambulance	4	0	1	5	4	1	0	0	3	0	0	0	0	1	0	1
Health & Safety Appeals	72	0	49	121	56	3	4	2	46	0	0	0	1	18	47	65
Appeal of Inspector's Order	67	0	47	114	50	0	4	1	44	0	0	0	1	18	46	64
Suspension of Order	5	0	2	7	6	3	0	1	2	0	0	0	0	0	1	1
Interim Order	16	0	2	18	16	2	2	1	11	0	0	0	0	1	1	2
Jurisdictional Dispute	41	3	43	87	44	4	3	2	32	0	1	1	1	4	39	43
Jurisdictional Dispute	0	0	1	1	0	0	0	0	0	0	0	0	0	0	1	1
Jurisdictional Dispute (Construction)	40	1	33	74	34	4	3	2	22	0	1	1	1	4	36	40
Jurisdictional Dispute (Industrial)	1	2	9	12	10	0	0	0	10	0	0	0	0	0	2	2
Ministerial Referrals	12	0	2	14	10	0	0	0	9	1	0	0	0	0	4	4
Ministerial Referral (General)	6	0	0	6	4	0	0	0	3	1	0	0	0	0	2	2
Ministerial Referral (HLDAA)	6	0	2	8	6	0	0	0	6	0	0	0	0	0	2	2
Public Sector Labour Relations Transition Act	8	1	7	16	13	0	5	0	8	0	0	0	0	0	3	3
PSLRTA (Bargaining Units/Bargaining Agents)	7	1	5	13	10	0	4	0	6	0	0	0	0	0	3	3
PSLRTA (Other)	1	0	2	3	3	0	1	0	2	0	0	0	0	0	0	0
Review of Structure of Bargaining Units	0	0	3	3	3	0	0	0	3	0	0	0	0	0	0	0
Sale of Business/Related Employer	96	9	114	219	111	29	6	2	72	1	0	0	1	13	95	108
School Board Collective Bargaining Act	3	0	0	3	3	3	0	0	0	0	0	0	0	0	0	0
Termination	111	2	28	141	114	49	30	16	18	0	0	1	0	1	26	27
Termination (Construction - Open Period)	40	1	15	56	44	21	13	5	5	0	0	0	0	1	11	12
Termination (Construction)	13	0	1	14	10	2	3	3	2	0	0	0	0	0	4	4
Termination (Industrial)	54	1	4	59	52	26	12	8	5	0	0	1	0	0	7	7
Termination (Non Vote-Based)	4	0	8	12	8	0	2	0	6	0	0	0	0	0	4	4
Unfair Labour Practices	500	14	307	821	533	16	113	27	369	0	0	0	8	35	253	288
Duty of Fair Referral	5	0	4	9	7	0	2	1	4	0	0	0	0	0	2	2
Duty of Fair Representation	225	6	94	325	233	0	86	21	125	0	0	0	1	10	82	92
Failure to Comply with Settlement	17	1	10	28	20	3	4	1	11	0	0	0	1	0	8	8
Unfair Labour Practice	222	4	192	418	244	9	20	3	206	0	0	0	6	19	155	174
Unfair Labour Practice (Bad Faith)	21	2	5	28	18	1	1	0	16	0	0	0	0	5	5	10
Unlawful Lockout	0	1	0	1	1	0	0	0	1	0	0	0	0	0	0	0
Unlawful Strike	10	0	2	12	10	3	0	1	6	0	0	0	0	1	1	2
Unlawful Reprisals	296	6	71	373	299	1	37	13	244	1	0	1	2	15	59	74
Health and Safety - Inspector Referral	14	0	3	17	14	0	0	1	13	0	0	0	0	2	1	3
Health and Safety Reprisal	278	6	68	352	281	1	37	11	228	1	0	1	2	13	58	71
Reprisal - Environmental Bill of Rights Act	1	0	0	1	1	0	0	1	0	0	0	0	0	0	0	0
Reprisal - Long Term-Care Homes Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0	0
Reprisal - Public Inquiries Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0	0
Reprisal - Public Service of Ontario Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0	0
Votes	8	0	0	8	5	0	3	1	1	0	0	0	0	0	3	3
Last Offer Vote	8	0	0	8	5	0	3	1	1	0	0	0	0	0	3	3
Misc.	36	1	17	54	39	17	2	1	18	1	0	0	0	2	13	15
Consent to Institute Prosecution	1	0	1	2	1	0	0	0	1	0	0	0	0	0	1	1
Early Termination of Collective Agreement	12	0	0	12	12	12	0	0	0	0	0	0	0	0	0	0
Employee Status	3	0	6	9	7	0	1	0	5	1	0	0	0	0	2	2
Failure to Furnish Financial Statement	3	0	2	5	2	1	0	0	1	0	0	0	0	0	3	3
First Agreement Direction	5	0	2	7	3	0	0	1	2	0	0	0	0	2	2	4
Foreign Nationals - Appeal	3	0	1	4	4	1	0	0	3	0	0	0	0	0	0	0
Inadequate Financial Statement	0	0	1	1	1	0	0	0	1	0	0	0	0	0	0	0
Project Agreement	3	1	0	4	2	1	0	0	1	0	0	0	0	0	2	2
Religious Exemption	2	0	0	2	2	0	0	0	2	0	0	0	0	0	0	0
Right of Access	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0	0
Sector Dispute (Construction)	2	0	4	6	3	1	1	0	1	0	0	0	0	0	3	3
Successor Trade Union	1	0	0	1	1	1	0	0	0	0	0	0	0	0	0	0

Figure 1

Applications Received and Disposed of - 5 Year Comparison (Figure 2)

The majority of cases filed in 2019/2020 fall under five main categories:

1. Under the *Labour Relations Act*, Certification and Termination of bargaining rights - 617 applications for certification (which includes 27 applications for certification in April 2019 in the second month of the triennial construction industry Open Period) and 111 applications for termination of bargaining rights (which includes 40 termination applications filed in April 2019 in the construction industry Open Period).
2. Contraventions of the LRA (500), the *Colleges Collective Bargaining Act* (3) and the *Public Service of Ontario Act* (0).
3. Under the LRA, Referrals of Construction Industry Grievances - 679
4. Under the ESA, Appeals of decisions of Employment Standards Officers - 1067.
5. Under the OHSA, Complaints under s. 50 and Appeals of Inspector's orders - 364.

The number of applications for certification and termination of bargaining rights was 728 which is virtually the same as the previous year. Of note is that there were 310 industrial certification applications as compared to 280 the previous year, an increase of almost 11%. Complaints of the contravention of the *Labour Relations Act* (section 96) decreased by 20 applications.

The number of construction grievances filed (679) was down from last year by 90 and is the lowest number in the last 5 years. (Figures 2 and 11)

The number of Employment Standards Act appeals received in 2019/2020 was 1067 a decrease of 122 from 2018/2019. The total number of ESA files received is an increase of 238 cases from the caseload in 2017/2018 and 345 cases from 2016/2017. This represents an increase of almost 12.5% from 2017/2018 and an increase of 19% from 2016/2017. (Figures 2 and 14)

Complaints under the *Occupational Health and Safety Act* with respect to reprisals in the workplace stayed constant at 296 in 2018/2019 and 292 in 2019/2020 (Figures 2 and 17). Of the 292 applications filed this year, 14 were referred by inspectors (Figure 1). Appeals (including suspension applications) of health and safety inspectors' orders increased by 7 from the previous year.

Further analysis of these and other individual case types may be found in sections of this Report which follow.

Fiscal Years 2015-16 to 2019-20	Number Received, Fiscal Year						Number Disposed of, Fiscal Year					
	Total	2015-16	2016-17	2017-18	2018-19	2019-20	Total	2015-16	2016-17	2017-18	2018-19	2019-20
Type of Case	17,692	3,411	3,273	3,507	3,930	3,571	20,883	3,964	4,336	4,681	4,098	3,804
Accreditation (Construction)	28	4	8	7	7	2	31	3	7	8	8	5
Breach of Settlement under section 105 or 141 of	1	-	-	-	1	-	1	-	-	-	1	-
Certification	3,234	684	643	649	641	617	4,532	818	1,044	1,228	768	674
College Vote	3	-	-	2	1	-	3	-	-	2	-	1
Consent to Institute Prosecution	6	1	1	2	1	1	5	1	1	1	1	1
Construction Grievance	3,942	854	797	843	769	679	4,640	948	970	1,191	827	704
Duty of Fair Referral	33	12	8	2	6	5	42	12	12	8	3	7
Duty of Fair Representation	980	174	183	201	197	225	1,080	184	220	223	220	233
Early Termination of Collective Agreement	30	3	3	7	5	12	33	4	2	10	5	12
Employee Status	26	8	4	5	6	3	32	10	6	6	3	7
Employment Standards (Appeal)	4,580	773	722	829	1,189	1,067	5,067	1,044	919	766	1,170	1,168
Essential Services - Crown Employees	2	2	-	-	-	-	10	5	1	-	4	-
Essential Services Agreement - Ambulance	18	3	3	4	4	4	13	2	3	4	-	4
Failure to Comply with Settlement	81	11	18	18	17	17	90	12	19	24	15	20
Failure to Furnish Financial Statement	12	2	4	1	2	3	9	1	2	3	1	2
First Agreement Direction	52	13	10	6	18	5	54	9	13	11	18	3
Foreign Nationals - Appeal	8	-	3	-	2	3	8	-	2	1	1	4
Health and Safety - Appeals	326	73	53	63	65	72	356	92	80	64	64	56
Health and Safety - Inspector Referrals	109	15	37	25	18	14	113	12	40	29	18	14
Health and Safety - Reprisals	1,106	162	182	206	278	278	1,148	170	191	247	259	281
Inadequate Financial Statement	2	1	-	-	1	-	2	1	-	-	-	1
Interim Order	132	25	30	27	34	16	144	22	45	27	34	16
Jurisdictional Dispute	233	61	38	53	40	41	359	62	123	82	48	44
Last Offer Vote	59	6	16	14	15	8	63	8	14	17	19	5
List of Employees	69	-	-	16	53	-	73	-	-	10	63	-
Ministerial Referrals	33	6	2	5	8	12	33	3	6	6	8	10
Ontario College of Trades	2	-	-	1	1	-	2	-	-	-	2	-
Project Agreement	11	1	3	3	1	3	12	2	2	3	3	2
Public Sector Labour Relations Transition Act	43	6	10	12	7	8	57	7	10	14	13	13
Religious Exemption	2	-	-	-	-	2	3	1	-	-	-	2
Reprisal - Environmental Bill of Rights Act	3	1	-	-	1	1	3	-	1	-	1	1
Reprisal - Environmental Protection Act	2	1	1	-	-	-	2	-	1	1	-	-
Reprisal - Long Term-Care Homes Act	2	-	-	-	1	1	2	-	-	-	1	1
Reprisal - Public Inquiries Act	3	-	2	-	-	1	3	-	2	-	-	1
Reprisal - Public Service of Ontario Act	3	-	2	-	-	1	4	1	2	-	-	1
Reprisal - Retirement Homes Act	1	-	-	-	1	-	1	-	-	-	1	-
Reprisal - Smoke-Free Ontario Act	2	1	1	-	-	-	3	-	3	-	-	-
Review of Structure of Bargaining Units	15	-	-	2	13	-	15	-	-	1	11	3
Right of Access	1	-	-	-	-	1	1	-	-	-	-	1
Sale of Business/Related Employer	594	118	95	155	130	96	713	153	142	177	130	111
School Board Collective Bargaining Act	4	-	1	-	-	3	7	3	1	-	-	3
Sector Dispute (Construction)	14	3	2	1	6	2	12	3	1	2	3	3
Successor Trade Union	19	11	4	1	2	1	19	11	3	1	3	1
Termination	414	74	89	52	88	111	458	79	98	88	79	114
Unfair Labour Practice	1,382	293	279	281	286	243	1,554	273	339	401	279	262
Unlawful Lockout	10	4	3	2	1	-	13	3	5	3	1	1
Unlawful Strike	44	5	5	11	13	10	43	5	5	11	12	10
Violation of Colleges Collective Bargaining Act	16	-	11	1	1	3	15	-	1	11	1	2

Figure 2

Cases Resolved Without a Final Hearing

Mediators are assigned to most applications filed with the Board and the majority of all files disposed of are resolved without the need for litigation at a final hearing before the Board. This past year, 90% of all individual files closed were resolved without a final hearing, including those settled or withdrawn through mediation.

Case Type Description	Total Closed	Settled	% of Cases Settled	To Final Hearing/ Consultation
Totals:	3,793	3,418	90.1%	375
Certification	674	579	85.9%	95
Certification (Construction - Card-Based)	292	237	81.2%	55
Certification (Construction - Open Period)	35	34	97.1%	1
Certification (Construction)	28	19	67.9%	9
Certification (Industrial)	318	288	90.6%	30
Certification (Specified Industries)	1	1	100.0%	0
Colleges Collective Bargaining Act	2	1	50.0%	1
Violation of Colleges Collective Bargaining Act	2	1	50.0%	1
Construction Grievance	704	666	94.6%	38
Employment Standards	1,168	1,050	89.9%	118
Employment Standards - Appeal (Director)	47	39	83.0%	8
Employment Standards - Appeal (Employee)	366	323	88.3%	43
Employment Standards - Appeal (Employer)	754	687	91.1%	67
Referral under Employment Standards Act	1	1	100.0%	0
Essential Services	4	4	100.0%	0
Essential Services Agreement - Ambulance	4	4	100.0%	0
Health & Safety Appeals	56	54	96.4%	2
Interim Order	16	12	75.0%	4
Jurisdictional Dispute	44	37	84.1%	7
Jurisdictional Dispute (Construction)	34	27	79.4%	7
Jurisdictional Dispute (Industrial)	10	10	100.0%	0
Ministerial Referrals	10	9	90.0%	1
Ministerial Referral (General)	4	3	75.0%	1
Ministerial Referral (HLDAA)	6	6	100.0%	0
Public Sector Labour Relations Transition Act	13	12	92.3%	1
PSLRTA (Bargaining Units/Bargaining Agents)	10	10	100.0%	0
PSLRTA (Other)	3	2	66.7%	1
Review of Structure of Bargaining Units	3	2	66.7%	1
Sale of Business/Related Employer	111	92	82.9%	19
School Board Collective Bargaining Act	3	0	0.0%	3
Termination	114	105	92.1%	9
Termination (Construction - Open Period)	44	42	95.5%	2
Termination (Construction)	10	9	90.0%	1
Termination (Industrial)	52	47	90.4%	5
Termination (Non Vote-Based)	8	7	87.5%	1
Unfair Labour Practices	533	479	89.9%	54
Duty of Fair Referral	7	7	100.0%	0
Duty of Fair Representation	233	206	88.4%	27
Failure to Comply with Settlement	20	16	80.0%	4
Unfair Labour Practice	244	225	92.2%	19
Unfair Labour Practice (Bad Faith)	18	18	100.0%	0
Unlawful Lockout	1	1	100.0%	0
Unlawful Strike	10	6	60.0%	4
Unlawful Reprisals	299	283	94.6%	16
Health and Safety - Inspector Referral	14	14	100.0%	0
Health and Safety - Reprisal	281	265	94.3%	16
Reprisal - Environmental Bill of Rights Act	1	1	100.0%	0
Reprisal - Long Term-Care Homes Act	1	1	100.0%	0
Reprisal - Public Inquiries Act	1	1	100.0%	0
Reprisal - Public Service of Ontario Act	1	1	100.0%	0
Misc	39	33	84.6%	6
Consent to Institute Prosecution	1	1	100.0%	0
Early Termination of Collective Agreement	12	12	100.0%	0
Employee Status	7	5	71.4%	2
Failure to Furnish Financial Statement	2	2	100.0%	0
First Agreement Direction	3	2	66.7%	1
Foreign Nationals - Appeal	4	3	75.0%	1
Inadequate Financial Statement	1	1	100.0%	0
Project Agreement	2	2	100.0%	0
Religious Exemption	2	2	100.0%	0
Right of Access	1	1	100.0%	0
Sector Dispute (Construction)	3	1	33.3%	2
Successor Trade Union	1	1	100.0%	0

Figure 3

Certification and Termination of Bargaining Rights Cases under the Labour Relations Act

Non-construction certification applications before the Board are decided by way of a representation vote, as are all termination applications, whether in the construction sector or not. The vast majority of construction certification applications are decided by a “card-check” process and not by vote. As such, the statistics shown about certification votes apply almost exclusively to non-construction sectors and to termination applications.

The Board received a total of 617 applications for certification. The number is 24 applications fewer than 2018/2019, but the breakdown is somewhat different. (Figures 1 and 4) The total in 2018/2019 included 50 certification applications under Bill 148 for specified industries before those provisions of the *Labour Relations Act* were repealed. The number of non-construction applications received was 310, which is 30 more than the previous year – an increase of almost 11%. (Figure 5) Of the construction certification applications, 251 were card-based applications which was 18 down from 269 in 2018/2019, and 27 were filed in the construction open period.

In 2019/2020, by decisions of the Board, four requests for remedial certification were granted, four were denied and two cases were otherwise dismissed or terminated.

The Board received a total of 111 applications for termination of bargaining rights – 40 were filed in the last month of the construction open period. In 2019/2020 there were 54 applications in industrial settings, which was an increase of 3 from the previous year.

The Board held a total of 385 votes in 2019/2020 which was 80 more than in 2018/2019, with 13,317 ballots cast and counted, 3225 more ballots than the previous year. The vast majority of these votes relate to certification files; the remainder are representational votes in termination applications, under the successor employer/related employer provisions of the *Labour Relations Act* or are votes related to Hospital, School Board and Municipal re-organization under PSLRTA. Of cases disposed of during 2019/2020, the majority of certification applications were successful, as were the majority of termination applications (Figure 6).

	Total Received	Re-Opened	Pending April 1, 2019	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Not Processed	Pending	Sine Die	Pending March 31, 2020	Total Pending + Sine Die
Totals:	728	29	288	1,045	788	518	100	20	144	2	4	14	243	257
Certification	617	27	260	904	674	469	70	4	126	1	4	13	217	230
Certification (Construction - Card Based)	251	8	155	414	292	218	12	2	59	1	0	6	116	122
Certification (Construction - Open Period)	27	0	20	47	35	23	8	0	3	0	1	1	11	12
Certification (Construction)	29	1	26	56	28	12	5	0	9	0	2	1	27	28
Certification (Industrial)	310	17	59	386	318	215	45	2	55	0	1	5	63	68
Certification (Specified Industries)	0	1	0	1	1	1	0	0	0	0	0	0	0	0
Termination	111	2	28	141	114	49	30	16	18	1	0	1	26	27
Termination (Construction - Open Period)	40	1	15	56	44	21	13	5	5	0	0	1	11	12
Termination (Construction)	13	0	1	14	10	2	3	3	2	0	0	0	4	4
Termination (Industrial)	54	1	4	59	52	26	12	8	5	1	0	0	7	7
Termination (Non Vote-Based)	4	0	8	12	8	0	2	0	6	0	0	0	4	4

Figure 4

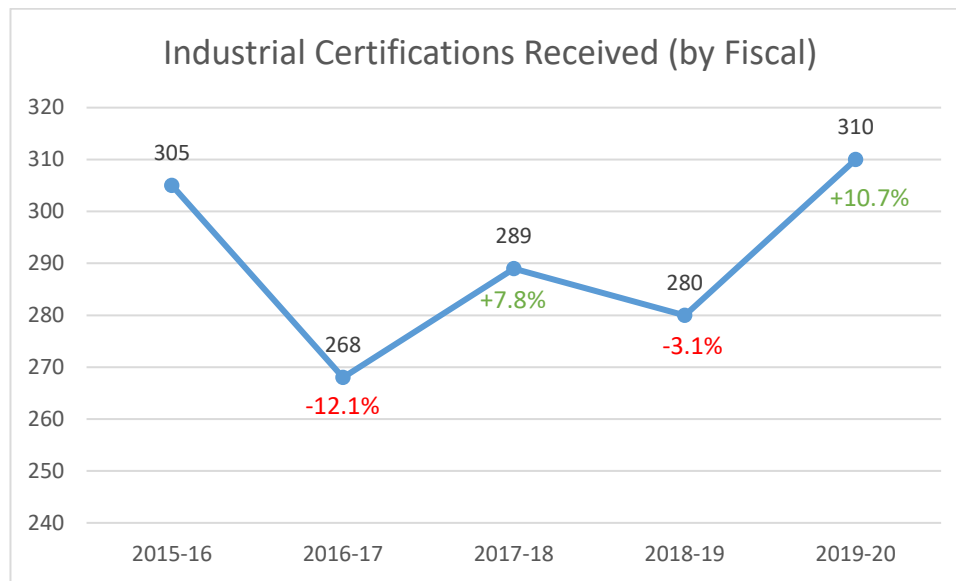


Figure 55

	Representation Cases Disposed			Representation Votes Conducted*		Representation Ballots Cast and Counted		
	Totals	Granted	Not Granted	Votes Conducted	Employees on Employers List	Total	In Favour of	Against
Totals	700	477	223	385	22,432	13,317	62.8%	37.2%
Certifications:	639	449	190	321	20,793	12,270	63.5%	36.5%
Construction:	323	235	88	45	521	213	50.7%	49.3%
One Union	277	206	71	7	46	21	47.6%	52.4%
Two Unions	45	28	17	38	475	192	51.0%	49.0%
Three Unions	1	1	0	1	11			
Industrial:	316	214	102	276	20,272	12,057	63.8%	36.2%
One Union	266	187	79	253	15,021	8,064	69.1%	30.9%
Two Unions	49	27	22	23	5,251	3,993	52.9%	47.1%
Three Unions	1	0	1					
Termination:								
One Union	61	28	33	64	1,639	1,047	54.2%	45.8%

* Refers to all representation votes conducted and the results counted during the fiscal year, regardless of whether or not the case was disposed of during the year

Figure 6

Of the 450 cases in which certificates were issued, 263 bargaining units were composed of 2 - 9 employees (212 of those were in the construction industry), and at the other extreme 12 were bargaining units of over 200 employees (only in the industrial setting) (Figure 7). The total number of certificates issued in the construction industry increased by 63 from 190 in 2018/2019 to 253 in 2019/2020. The number of certificates issued in the industrial setting decreased by 70 from the previous year - from 267 to 197.

Employees	Total		Construction		Industrial	
	Cases	Employees	Cases	Employees	Cases	Employees
Total:	450	10,859	253	1,497	197	9,362
2-9	263	1,130	212	863	51	267
10-19	83	1,113	34	429	49	684
20-39	47	1,360	6	163	41	1,197
40-99	37	2,208	1	42	36	2,166
100-199	8	1,122	-	-	8	1,122
200-499	11	3,411	-	-	11	3,411
500 +	1	515	-	-	1	515

Figure 7

Of the non-construction certification applications, the majority related to the broader public sector, service and non-manufacturing industries (Figure 8).

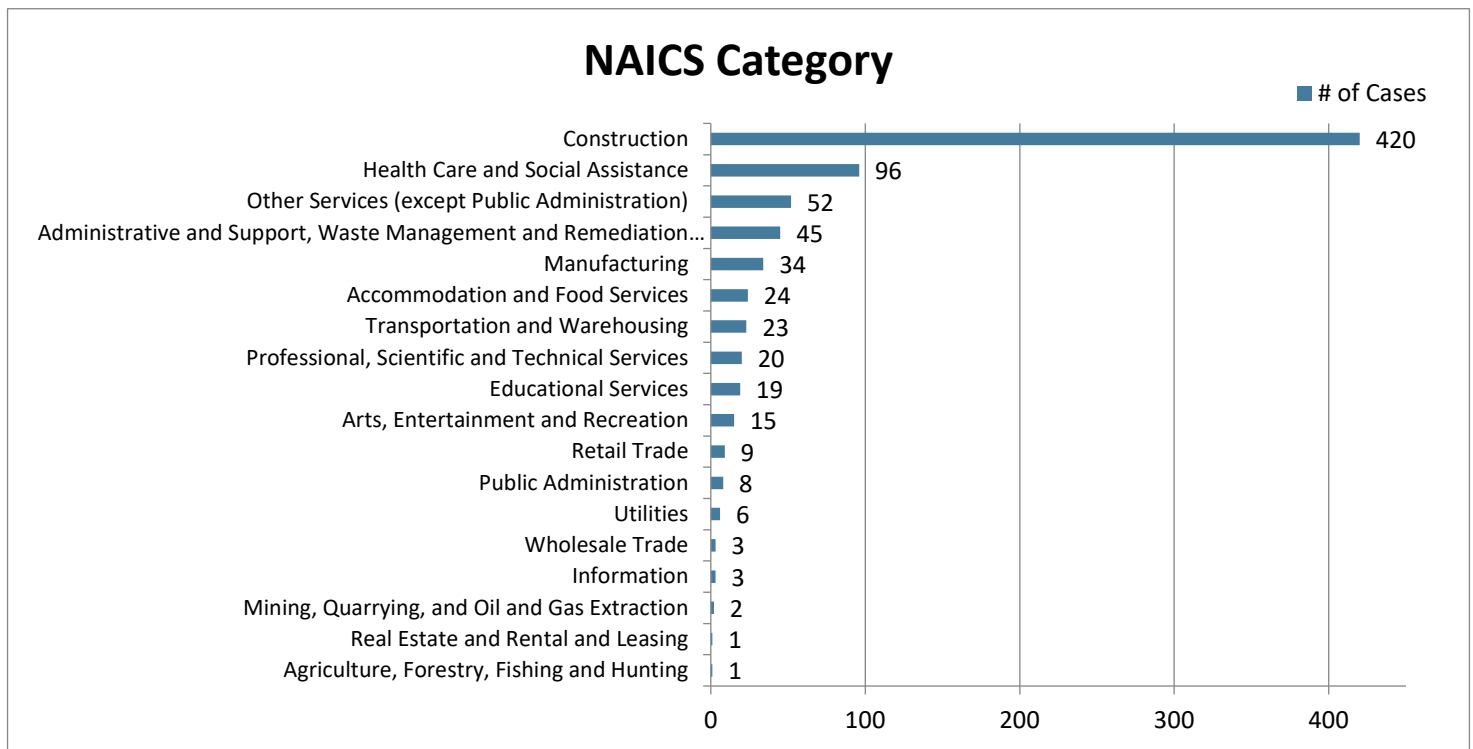


Figure 8

88.2% of all non-construction certification votes were held within five working days of application and almost 95% were held within seven days. Non-construction termination applications took slightly longer, largely because of bargaining unit and notice issues: 76.2% were held within five days of application, and 90.5% were held within seven days of application. (Figure 9)**

Number of Days	Certification						Termination					
	Total		Industrial		Construction		Total		Industrial		Construction	
	Cases	% of	Cases	% of	Cases	% of	Cases	% of	Cases	% of	Cases	% of
	356		306		50		92		42		50	
< 5	4	1.1%	4	1.3%	0	0.0%	1	1.1%	1	2.4%	0	0.0%
5	270	77.0%	266	88.2%	4	8.0%	37	42.4%	31	76.2%	6	12.0%
6	40	88.2%	23	95.8%	17	42.0%	19	62.0%	5	88.1%	14	40.0%
7	23	94.7%	5	97.4%	18	78.0%	20	83.7%	1	90.5%	19	78.0%
8	4	95.8%	1	97.7%	3	84.0%	7	91.3%	2	95.2%	5	88.0%
9	0	95.8%	0	97.7%	0	84.0%	2	93.5%	0	95.2%	2	92.0%
10	0	95.8%	0	97.7%	0	84.0%	3	96.7%	0	95.2%	3	98.0%
11-15	4	96.9%	1	98.0%	3	90.0%	3	100.0%	2	100.0%	1	100.0%
16-20	0	96.9%	0	98.0%	0	90.0%	0	100.0%	0	100.0%	0	100.0%
21+	11	100.0%	6	100.0%	5	100.0%	0	100.0%	0	100.0%	0	100.0%

Figure 9

*Under the Board's Rules of Procedure, construction certification applications may be delivered to the employer two days after the date of application. In those cases, where the application was filed under section 8 of the Labour Relations Act, the vote occurs five days after delivery to the employer or where the application was filed under section 128.1 of the *Labour Relations Act* a vote occurs after the Board conducts a hearing and determines the composition of the bargaining unit.

**The cumulative number in non-construction certification and termination votes includes electronic votes, applications in which a second vote was later held on agreement of the parties or by order of the Board or where the Board directed submissions before the ordering of a vote.

Contravention of the Labour Relations Act

Complaints alleging contravention of the *Labour Relations Act* may be filed with the Board under section 96 of the Act.

In 2019-2020, the Board received 500 complaints under this section. In complaints against employers, the principal charges were alleged illegal discharge of or discrimination against employees for union activity in violation of section 70 and 72 of the Act, illegal changes in wages and working conditions contrary to section 86, and failure to bargain in good faith under section 17. These charges were made mostly in connection with applications for certification. The principal charge against trade unions was alleged failure to represent employees fairly in grievances against their employer.

Of 533 files closed on a final basis, almost 90% were resolved without a final hearing (Figure 3).

Duty of Fair Representation / Referral

Complaints against trade unions for a breach of the duty to provide fair representation or referral (ss. 74 and 75 LRA) numbered 240, which is 17 more than the previous year. None were granted, 86 were dismissed and 21 were terminated. Of 233 individual duty of fair representation files closed, 88.4% were resolved without a final hearing (Figure 3). Of 7 duty of fair referral files closed, 100% were resolved without a final hearing (Figure 3). Only 27 of both case types proceeded to a final consultation/hearing (Figure 3).

Declaration/Direction of Unlawful Strike/Lock-out

In 2019/2020, the Board received 10 applications and 2 files were carried over seeking a declaration under section 100 regarding an alleged unlawful strike by employees. Six cases settled without a final hearing, 3 were granted and two were pending on March 31, 2020 (Figure 10)

The Board received no applications for a declaration under section 101 regarding an alleged unlawful lock-out by an employer in 2019/2020.

	Total Received	Re-Opened	Pending April 1, 2019	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Pending	Sine Die	Pending March 31, 2020	Total Pending + Sine Die
Unfair Labour Practices	500	14	307	821	533	16	113	27	369	8	35	253	288
Duty of Fair Referral	5	0	4	9	7	0	2	1	4	0	0	2	2
Duty of Fair Representation	225	6	94	325	233	0	86	21	125	1	10	82	92
Failure to Comply with Settlement	17	1	10	28	20	3	4	1	11	1	0	8	8
Unfair Labour Practice	222	4	192	418	244	9	20	3	206	6	19	155	174
Unfair Labour Practice (Bad Faith)	21	2	5	28	18	1	1	0	16	0	5	5	10
Unlawful Lockout	0	1	0	1	1	0	0	0	1	0	0	0	0
Unlawful Strike	10	0	2	12	10	3	0	1	6	0	1	1	2

Figure 10

Construction Industry Grievances

Grievances over alleged violations of the provisions of a collective agreement in the construction industry may be referred to the Board for resolution under section 133 of the Act.

In 2019/2020, the Board received 679 cases under this section (Figure 1), which is almost 12% lower than the previous year. (Figure 11). The principal issues in these grievances are alleged failure by employers to make required contributions to health and welfare, pension and vacation funds, failure to deduct union dues, and alleged violation of the subcontracting and hiring arrangements in the collective agreement.

In November 2018, the Board finalized its e-filing project and permitted grievance referrals to be filed and responded to electronically with online payment. In 2019/2020, 422 grievance referrals, 239 forms indicating intent to defend (both with online payment) and 85 response forms were filed electronically, which represents 62%, 43% and 49% of those forms filed respectively. Electronic filing was also made available for file-related correspondence, documents and other material. Of the 704 grievance referrals closed, 94.6% were resolved without a final hearing. (Figure 3).

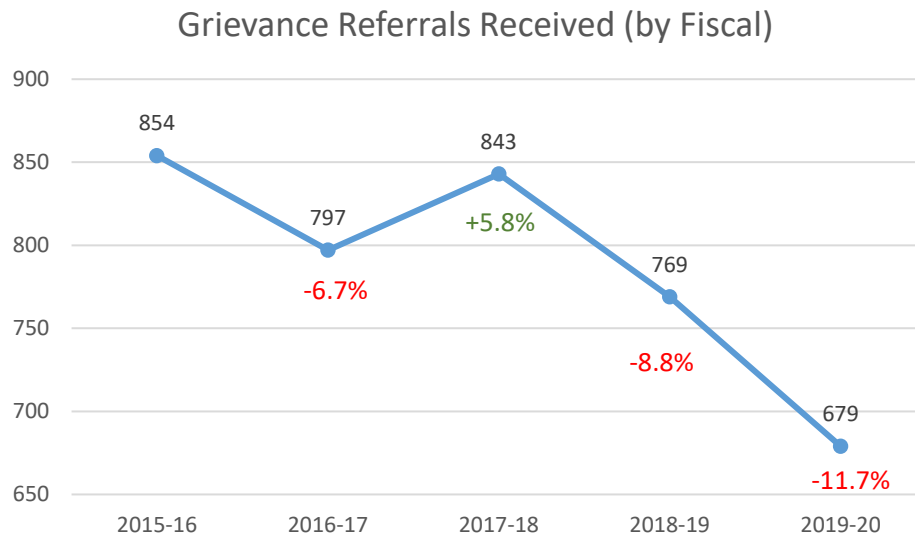


Figure 11

Appeals under the Employment Standards Act

The *Employment Standards Act* deals with workplace rights such as minimum wage, hours of work, overtime, vacation or public holiday pay, violations of pregnancy or reprisal provisions, termination issues, and severance pay.

The Board revised its processing of appeals in 2018/2019 to expedite the process and continued to make changes in 2019/2020. In certain circumstances, the Registrar issues a letter with a deadline to properly complete the application. In the event that the applicant does not meet the requirements within the deadline, the file is closed with a Registrar's letter indicating that the file is not being processed. 17 files were closed in this manner with a final disposition of "not processed", which alleviated the requirement for review by an adjudicator.

The Board received 1,067 cases in 2019/2020 which is 10% fewer than in 2018/2019, and a 28.7% increase from 2017/2018. The Board dealt with 1,502 cases during 2019/2020, which includes the 1,067 new cases filed, 425 cases from the previous year and 10 re-opened files. Of the 1,168 case closures, 65 were granted, 139 were dismissed, and 115 were terminated. (Figure 12) Of the appeals received, 62% were filed by the employer which is down from 70% the previous year. (Figure 13) Almost 90% (1050) of individual cases closed were resolved without a hearing and 118 cases went to a final hearing (Figure 3).

	Total Received	Re-Opened	Pending April 1, 2019	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Not Processed	Sine Die	Pending March 31, 2020	Total Pending + Sine Die
Employment Standards	1067	10	425	1502	1168	65	139	115	830	2	17	9	325	334
Employment Standards - Appeal (Director)	50	0	21	71	47	3	11	12	19	0	2	1	23	24
Employment Standards - Appeal (Employee)	355	1	119	475	366	24	31	26	283	0	2	2	107	109
Employment Standards - Appeal (Employer)	661	9	285	955	754	38	97	77	527	2	13	6	195	201
Referral under Employment Standards Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0

Figure 12

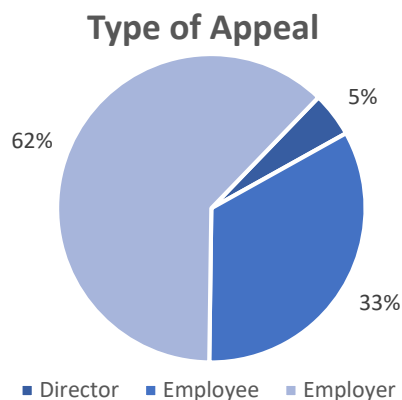


Figure 13

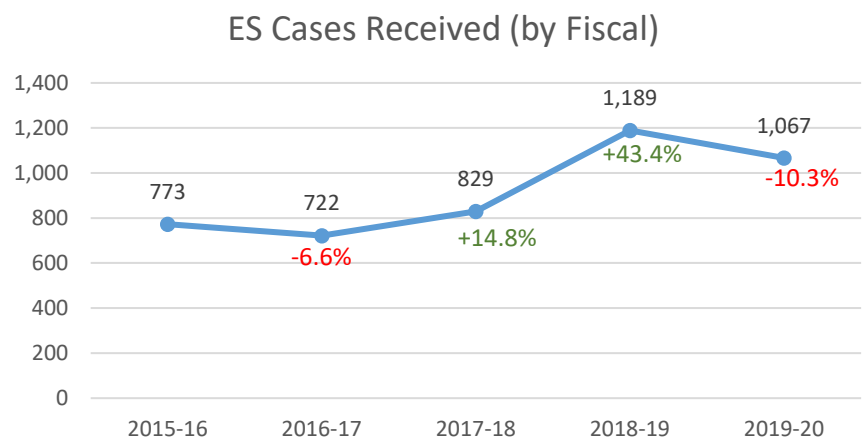


Figure 14

Occupational Health and Safety Act

Appeals under the *Occupational Health and Safety Act*

The *Occupational Health and Safety Act* and its regulations ensure that workers' health and safety in the workplace is protected. Violations of the Act are investigated by health and safety inspectors from the Ministry of Labour; orders or decisions of inspectors are the subject of appeals to the Ontario Labour Relations Board.

One hundred and twenty-one appeals, including applications for suspensions, were dealt with by the Board in 2019/2020. Of 56 individual files closed, 96.4% were resolved prior to a hearing and only 2 were scheduled for final hearing (Figure 3).

	Total Received	Pending April 1, 2019	Total Caseload	Total Closed	Granted / Partially Dismissed	Terminated	Settled, Withdrawn, Abandoned	Pending	Sine Die	Pending March 31, 2020	Total Pending + Sine Die	
Health & Safety Appeals	72	49	121	56	3	4	2	46	1	18	47	65
Appeal of Inspector's Order	67	47	114	50	0	4	1	44	1	18	46	64
Suspension of Order	5	2	7	6	3	0	1	2	0	0	1	1

Figure 15

Unlawful Reprisals

Health and Safety Reprisals

In 2019/2020, the Board received 292 complaints under Section 50 of the *Occupational Health and Safety Act* alleging wrongful discipline or discharge for acting in compliance with the Act. Fourteen of the applications filed in 2019/2020 were referred by health and safety inspectors (Figure 16).

Of the total 299 individual cases closed, 283 cases (94.6%) were resolved by the parties prior to a final hearing (Figure 3).

	Total Received	Re-Opened	Pending April 1, 2019	Total Caseload	Total Closed	Granted / Partially Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Not Processed	Pending	Sine Die	Pending March 31, 2020	Total Pending + Sine Die	
Unlawful Reprisals	296	6	71	373	299	1	37	13	244	1	1	2	15	59	74
Health and Safety - Inspector Referral	14	0	3	17	14	0	0	1	13	0	0	0	2	1	3
Health and Safety Reprisal	278	6	68	352	281	1	37	11	228	1	1	2	13	58	71
Reprisal - Environmental Bill of Rights Act	1	0	0	1	1	0	0	1	0	0	0	0	0	0	0
Reprisal - Long Term-Care Homes Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0
Reprisal - Public Inquiries Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0
Reprisal - Public Service of Ontario Act	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0

Figure 16

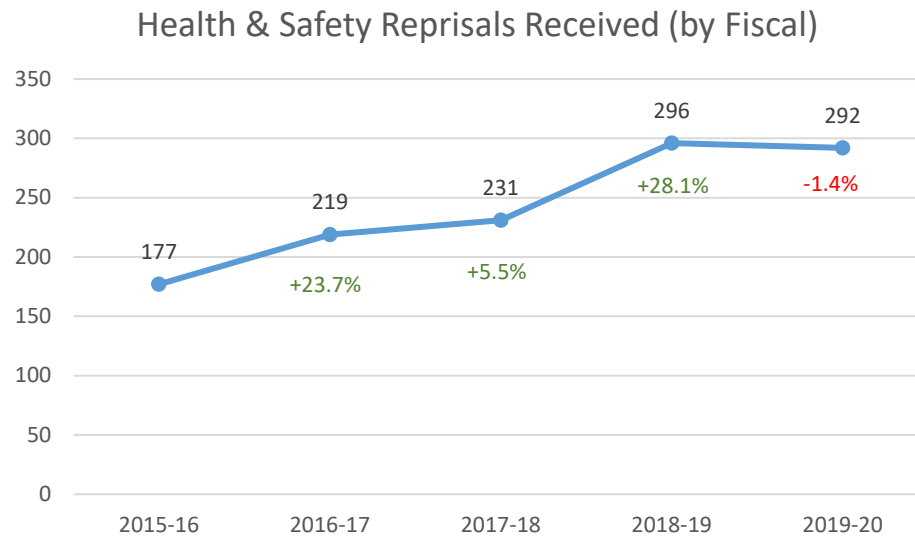


Figure 17

Other Applications

Applications for Interim Order

Where a proceeding is pending, the Board, on application under the *Labour Relations Act* and the *Occupational Health and Safety Act*, may make interim orders. With the enactment of Bill 148, the circumstances where an interim order can be sought and directed by the Board were expanded.

In 2019/2020, the Board received 16 applications for interim orders, and two were pending from the previous year. During the year, two interim orders were granted, two were dismissed and one was terminated. Twelve files were resolved without a final hearing (Figure 3). One is pending on March 31, 2020 (Figure 1).

Applications for Review of Structure of Bargaining Units

Bill 148 enacted new provisions in the *Labour Relations Act* as of January 1, 2018, which permitted the Board to review the structure of bargaining units in certain circumstances and to consolidate a newly certified bargaining unit with other existing bargaining units at the same employer, where those units are represented by the same union. In addition, the parties could jointly agree to review the structure of the bargaining units and make a joint application for consent of the Board to consolidate bargaining units. These provisions were repealed by Bill 47 as of November 21, 2018.

In 2019/2020, there were three outstanding applications before the Board for review of the structure of bargaining units. All three were disposed of without a hearing having been settled, withdrawn or abandoned. (Figure 1)

Jurisdictional Disputes

There were 87 applications before the Board under section 99 of the Act involving union work jurisdiction. Forty-four individual cases closed were resolved prior to a final hearing date (Figure 3).

	Total Received	Re-Opened	Pending April 1, 2019	Total Caseload	Total Closed	Granted / Partially	Dismissed	Terminated	Settled, Withdrawn, Abandoned	Work Assignment Altered	Not Processed	Pending	Sine Die	Pending March 31, 2020	Total Pending + Sine Die
Jurisdictional Dispute	41	3	43	87	44	4	3	2	32	1	1	1	4	39	43
Jurisdictional Dispute	0	0	1	1	0	0	0	0	0	0	0	0	0	1	1
Jurisdictional Dispute (Construction)	40	1	33	74	34	4	3	2	22	1	1	1	4	36	40
Jurisdictional Dispute (Industrial)	1	2	9	12	10	0	0	0	10	0	0	0	0	2	2

Figure 18

Sale of Business/Related Employer Applications

The Board received 96 applications alleging that two or more businesses were related and therefore should be treated as one employer under section 1(4) of the *Labour Relations Act* or that there had been a sale of a business or part of a business which has affected the representation rights of the employees (section 69 of the *Labour Relations Act*). This number was down 34 applications from 130 in the previous year (Figure 19).

The Board re-opened 9 applications and had 114 pending from the previous year for a total caseload of 219 cases. In 2019/2020, of the 111 cases closed, 29 were granted, 6 were dismissed, 2 were terminated and 92 were resolved without a final hearing or 82.9% (Figure 3). 108 applications were pending as of March 31, 2020.

Sale of Business/Related Employer (by Fiscal)

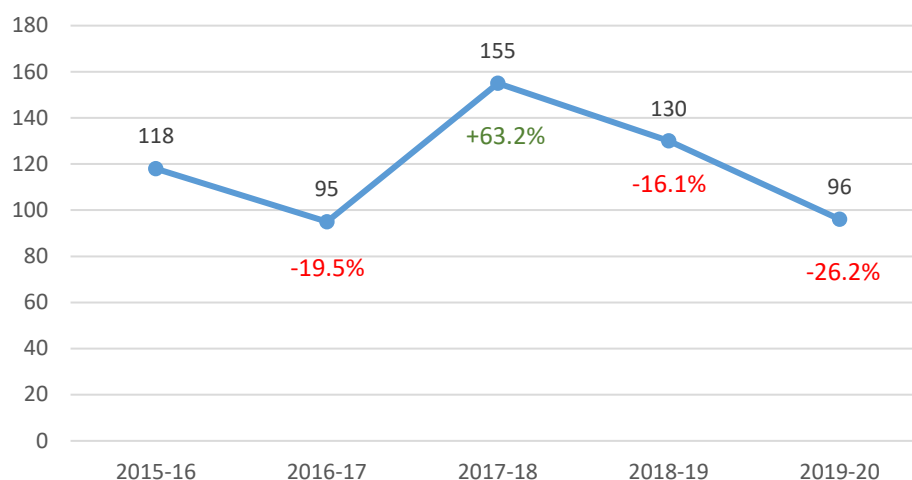


Figure 19

Essential Services

No applications were received under the *Crown Employees Collective Bargaining Act* in 2019/2020.

Four cases were received under the *Ambulance Services Collective Bargaining Act* and one was pending from the previous year. Of the 4 cases closed, one case was granted and 3 were resolved without a final hearing (Figure 20).

Colleges Collective Bargaining Act

The *Colleges Collective Bargaining Act, 2008* extended collective bargaining to part-time and sessional employees of Colleges of Applied Arts and Technology. The *CCBA, 2008* addresses certifications and terminations of bargaining rights, unfair labour practice complaints and provides for collective negotiation, conciliation and mediation processes that are similar to those set out in the *Labour Relations Act, 1995*.

The Board received no applications for certification in 2019/2020. One is pending as of March 31, 2020.

Pursuant to the *Colleges Collective Bargaining Act*, votes to ratify a proposed collective agreement or memorandum of settlement (section 16) and strike votes (section 17(1)) are to be conducted under the supervision of the Board. The Board supervised no such ratification vote under the *Colleges Collective Bargaining Act* in 2019/2020. (Figure 20).

Pursuant to section 17(2) of the *Colleges Collective Bargaining Act*, the College Employer Council may request the Board to conduct a vote of employees to accept or reject the last offer of the Council. The Board did not receive such a request under the *CCBA* in 2019/2020.

In 2019/2020, there were three unfair labour practice complaints filed under the *CCBA*. One case was dismissed, one case was closed without a final hearing, and two remained pending as of March 31, 2020 (Figure 20).

Last Offer Votes

The Minister of Labour requests the Board to conduct votes among employees on employers' last offers for settlement of a collective agreement dispute under section 42(1) of the Act. Although the Board is not responsible for the administration of votes under that section, the Board's Mediators and Labour Relations Conciliators are assigned by the Registrar to conduct these votes because of their expertise and experience in conducting representation votes under the Act.

The Board received eight requests during the fiscal year for a total caseload of eight. Of the five files closed, the employees voted to reject the collective agreement in three cases, and two were settled or withdrawn. (Figure 20).

Declaration of Successor Trade Union

One application for declaration of successor trade union was received and one was granted or partially granted. (Figure 20).

Early Termination of Collective Agreement

Twelve applications were received under section 58(3) of the *Labour Relations Act*, seeking early termination of collective agreements in 2019/2020. These are joint applications by employers and trade unions and consent were granted in all 12 cases (Figure 20).

Referral on Employee Status

The Board had nine applications before it under section 114(2) of the Act, seeking decisions on the status of individuals as employees under the Act. Seven cases closed, five of which were resolved by the parties before a final hearing, and two cases were pending on March 31, 2020 (Figure 20).

Referrals by Minister of Labour

In 2019/2020, the Board dealt with 14 cases including 12 new cases referred by the Minister under section 115 of the LRA for opinions or questions related to the Minister's authority to appoint a conciliation officer under section 18 of the LRA, under sections 48 or 49 of the LRA for authority to appoint an arbitrator, or under s.3 (2) of the *Hospital Labour Disputes Arbitration Act*. The Board implemented a new process for processing these files by setting a hearing date at the time of sending out confirmation of filing. Ten of the applications were closed. Nine applications were resolved without a hearing, advice was provided in one case and four remained pending on March 31, 2020 (Figure 20).

First Agreement Arbitration

In 2019/2020, the Board processed seven applications for directions to settle first agreements by arbitration and four remained pending on March 31, 2020.

Applications under the *Public Sector Labour Relations Transition Act*

The *Public Sector Labour Relations Transition Act, 1997* established a separate regime of successor rights governing matters that arise out of restructuring and amalgamations in the broader public sector. The Act gives the Board the power to determine new bargaining unit configurations, to appoint new bargaining agents, and to address other collective bargaining issues that may arise from municipal amalgamations, school board changes and hospital restructuring.

The *Protecting What Matters Most Act* ("*Budget Measures Act*") received Royal Assent on May 29, 2019. Schedule 53 of the *Budget Measures Act* repealed section 9 of *PSLRTA*. As a result, effective May 29, 2019, applications may no longer be made to the Board to request the application of *PSLRTA* where there is a health integration or where it is asserted that the facts give rise to a health integration.

In 2019/2020, the Board processed 16 applications under the *Public Sector Labour Relations Transition Act, 1997* including 8 new applications. Five were dismissed, and 12 individual files or 92% were disposed of without a final hearing. Three cases were pending on March 31, 2020 (Figures 20 and 3).

	Total Received	Re-Opened	Pending April 1, 2019	Total Caseload	Total Closed	Granted / Partially Dismissed	Terminated	Settled, Withdrawn, Abandoned	Advice Provided	Not Processed	Pending	Sine Die	Pending March 31, 2020	Total Pending + Sine Die	
Totals:	867	45	460	1,372	916	176	27	11	628	3	1	70	169	287	456
Accreditation (Construction)	2	2	3	7	5	4	0	0	1	0	0	0	0	2	2
Colleges Collective Bargaining Act	3	0	3	6	3	0	1	0	2	0	0	0	0	3	3
Certification	0	0	1	1	0	0	0	0	0	0	0	0	0	1	1
College Vote	0	0	1	1	1	0	0	0	1	0	0	0	0	0	0
Violation of Colleges Collective Bargaining Act	3	0	1	4	2	0	1	0	1	0	0	0	0	2	2
Construction Grievance	679	32	308	1019	704	120	8	6	500	0	1	69	152	163	315
Essential Services	4	0	1	5	4	1	0	0	3	0	0	0	1	0	1
Essential Services Agreement - Ambulance	4	0	1	5	4	1	0	0	3	0	0	0	1	0	1
Interim Order	16	0	2	18	16	2	2	1	11	0	0	0	1	1	2
Ministerial Referrals	12	0	2	14	10	0	0	0	9	1	0	0	0	4	4
Ministerial Referral (General)	6	0	0	6	4	0	0	0	3	1	0	0	0	2	2
Ministerial Referral (HLDAA)	6	0	2	8	6	0	0	0	6	0	0	0	0	2	2
Public Sector Labour Relations Transition Act	8	1	7	16	13	0	5	0	8	0	0	0	0	3	3
PSLRTA (Bargaining Units/Bargaining Agents)	7	1	5	13	10	0	4	0	6	0	0	0	0	3	3
PSLRTA (Other)	1	0	2	3	3	0	1	0	2	0	0	0	0	0	0
Review of Structure of Bargaining Units	0	0	3	3	3	0	0	0	3	0	0	0	0	0	0
Sale of Business/Related Employer	96	9	114	219	111	29	6	2	72	1	0	1	13	95	108
School Board Collective Bargaining Act	3	0	0	3	3	3	0	0	0	0	0	0	0	0	0
Votes	8	0	0	8	5	0	3	1	1	0	0	0	0	3	3
Last Offer Vote	8	0	0	8	5	0	3	1	1	0	0	0	0	3	3
Misc.	36	1	17	54	39	17	2	1	18	1	0	0	2	13	15
Consent to Institute Prosecution	1	0	1	2	1	0	0	0	1	0	0	0	0	1	1
Early Termination of Collective Agreement	12	0	0	12	12	12	0	0	0	0	0	0	0	0	0
Employee Status	3	0	6	9	7	0	1	0	5	1	0	0	0	2	2
Failure to Furnish Financial Statement	3	0	2	5	2	1	0	0	1	0	0	0	0	3	3
First Agreement Direction	5	0	2	7	3	0	0	1	2	0	0	0	2	2	4
Foreign Nationals - Appeal	3	0	1	4	4	1	0	0	3	0	0	0	0	0	0
Inadequate Financial Statement	0	0	1	1	1	0	0	0	1	0	0	0	0	0	0
Project Agreement	3	1	0	4	2	1	0	0	1	0	0	0	0	2	2
Religious Exemption	2	0	0	2	2	0	0	0	2	0	0	0	0	0	0
Right of Access	1	0	0	1	1	0	0	0	1	0	0	0	0	0	0
Sector Dispute (Construction)	2	0	4	6	3	1	1	0	1	0	0	0	0	3	3
Successor Trade Union	1	0	0	1	1	1	0	0	0	0	0	0	0	0	0

Figure 20

Time Required to Dispose of Applications, by Major Case Type

Time Taken (Calendar Days)	All Cases		Certification		Contravention		Health & Safety		Employment Standards		Construction Industry Grievances		Sale of Business		Termination		All Other Cases	
	Cumulative %		Cumulative %		Cumulative %		Cumulative %		Cumulative %		Cumulative %		Cumulative %		Cumulative %		Cumulative %	
	Dispositions		Dispositions		Dispositions		Dispositions		Dispositions		Dispositions		Dispositions		Dispositions		Dispositions	
Total	3765		673		531		347		1160		700		110		114		130	
0-7	149	4.0	51	7.6	13	2.4	6	1.7	10	0.9	42	6.0	1	0.9	23	20.2	3	2.3
8-14	260	10.9	83	19.9	13	4.9	7	3.7	7	1.5	128	24.3	3	3.6	9	28.1	10	10.0
15-21	286	18.5	149	42.1	17	8.1	19	9.2	11	2.4	55	32.1	2	5.5	16	42.1	17	23.1
22-28	171	23.0	52	49.8	26	13.0	30	17.9	26	4.7	23	35.4	1	6.4	7	48.2	6	27.7
29-35	172	27.6	34	54.8	18	16.4	38	28.8	51	9.1	20	38.3	3	9.1	4	51.8	4	30.8
36-42	183	32.4	18	57.5	19	20.0	44	41.5	70	15.1	16	40.6	3	11.8	9	59.6	4	33.8
43-49	131	35.9	19	60.3	20	23.7	21	47.6	49	19.3	14	42.6	1	12.7	4	63.2	3	36.2
50-56	99	38.5	6	61.2	17	26.9	13	51.3	48	23.4	6	43.4	4	16.4	4	66.7	1	36.9
57-63	114	41.6	13	63.2	14	29.6	14	55.3	54	28.1	8	44.6	1	17.3	6	71.9	4	40.0
64-70	110	44.5	11	64.8	17	32.8	12	58.8	53	32.7	9	45.9	3	20.0	2	73.7	3	42.3
71-77	95	47.0	0	64.8	12	35.0	6	60.5	63	38.1	11	47.4	1	20.9	1	74.6	1	43.1
78-84	102	49.7	9	66.1	7	36.3	13	64.3	59	43.2	8	48.6	1	21.8	3	77.2	2	44.6
85-91	84	52.0	4	66.7	13	38.8	12	67.7	44	47.0	6	49.4	1	22.7	0	77.2	4	47.7
92-98	79	54.1	3	67.2	11	40.9	11	70.9	45	50.9	6	50.3	0	22.7	0	77.2	3	50.0
99-105	59	55.6	5	67.9	5	41.8	5	72.3	37	54.1	4	50.9	2	24.5	0	77.2	1	50.8
106-126	198	60.9	6	68.8	25	46.5	15	76.7	138	65.9	8	52.0	3	27.3	1	78.1	2	52.3
127-147	148	64.8	13	70.7	18	49.9	11	79.8	84	73.2	15	54.1	1	28.2	3	80.7	3	54.6
148-168	121	68.0	11	72.4	23	54.2	5	81.3	57	78.1	12	55.9	3	30.9	3	83.3	7	60.0
168+	1204	100.0	186	100.0	243	100.0	65	100.0	254	100.0	309	100.0	76	100.0	19	100.0	52	100.0

Figure 21

Percentage of Cases Closed Within 3, 6 and 9 Months of Application Date

Sale of Business / Related Employer

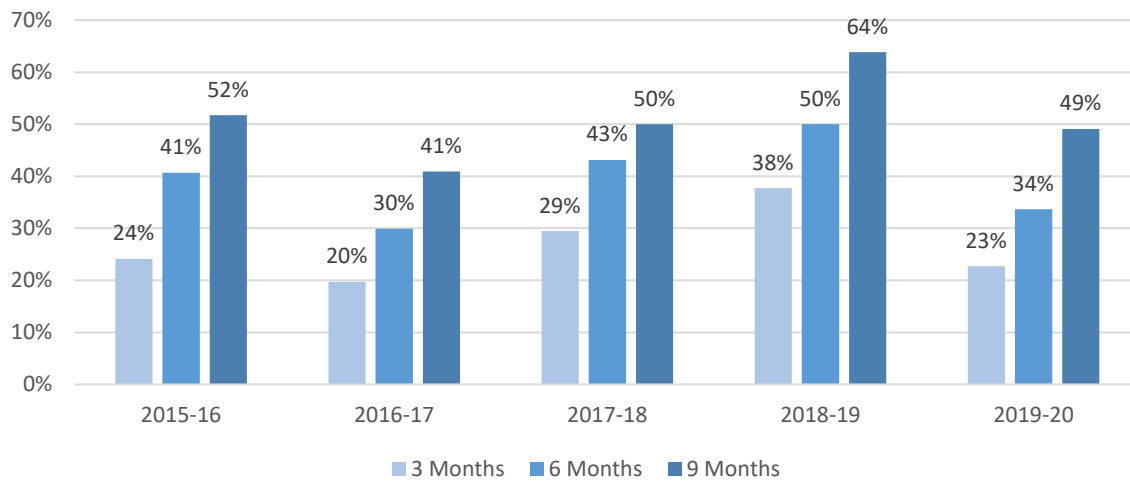


Figure 22

Employment Standards (Appeals)

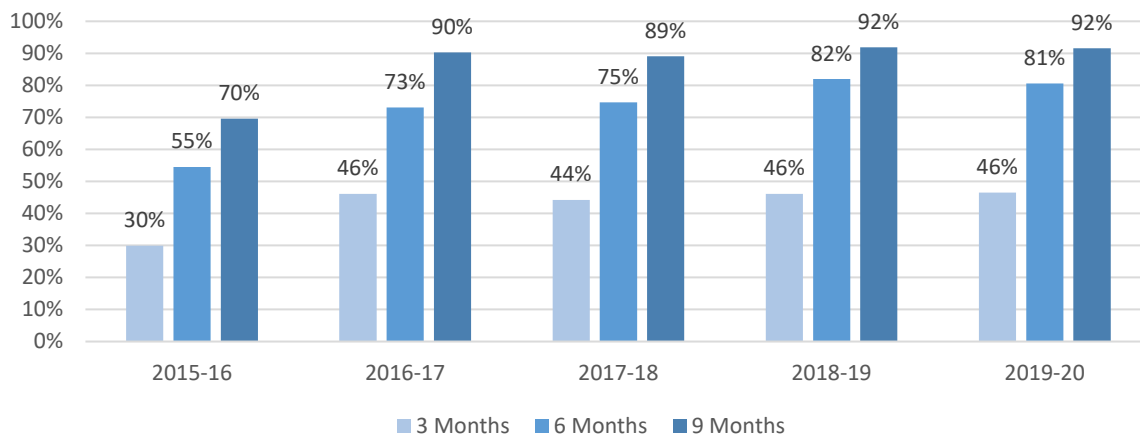


Figure 23

Construction Industry Grievances

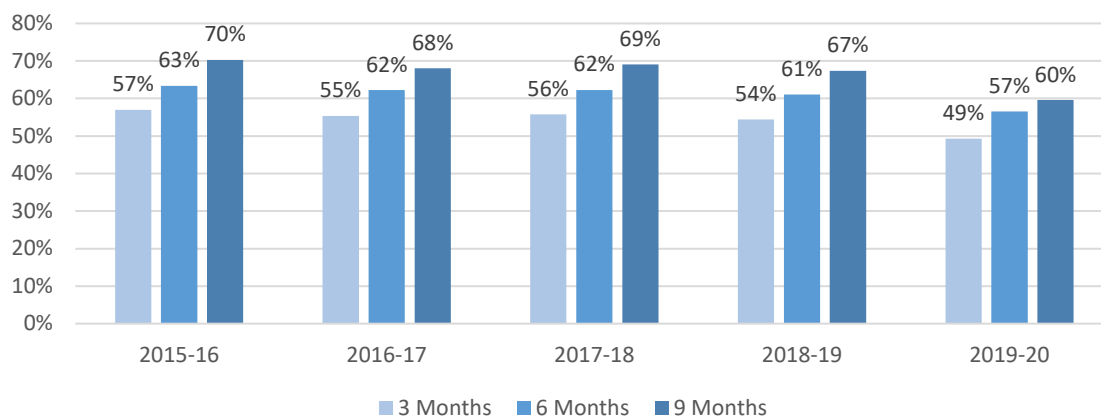


Figure 24

OHSA Reprisals

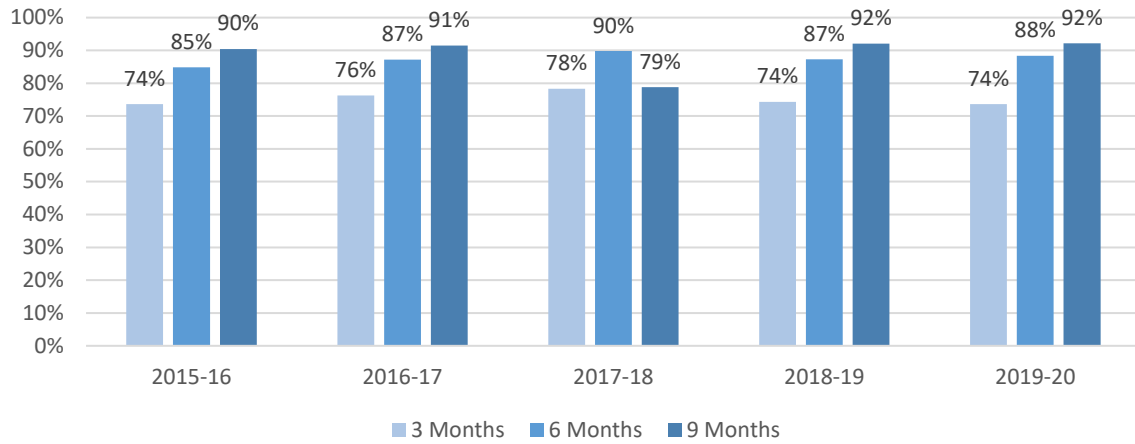


Figure 25

Certifications - Construction Card Based

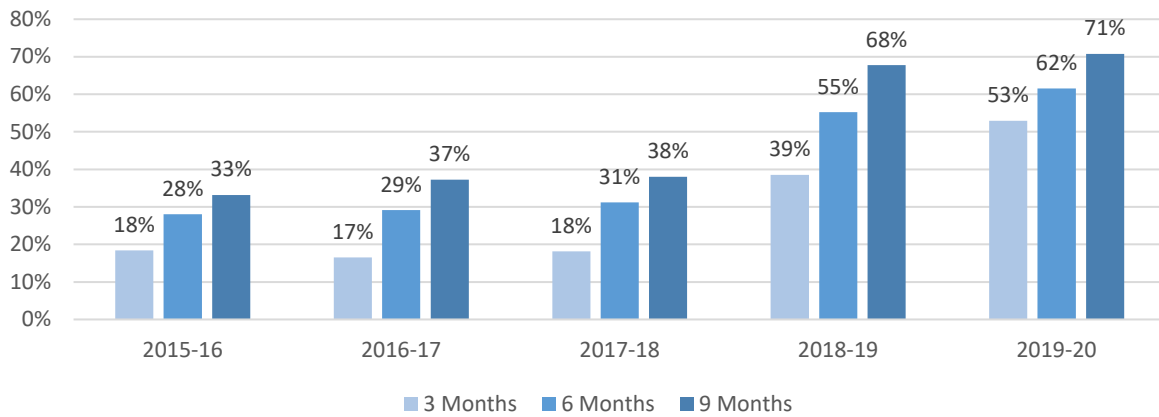


Figure 26

Certifications/Terminations (Industrial)

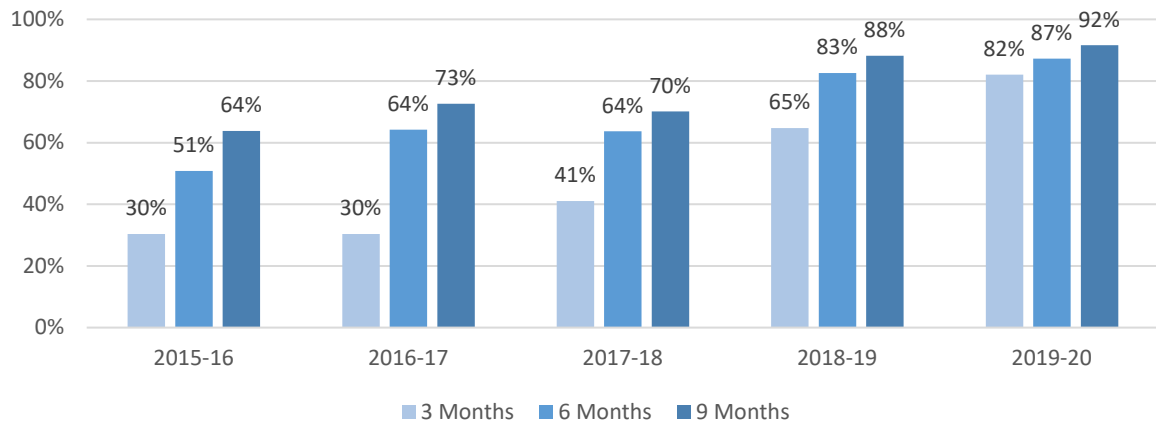


Figure 27

Certifications/Terminations (Construction)

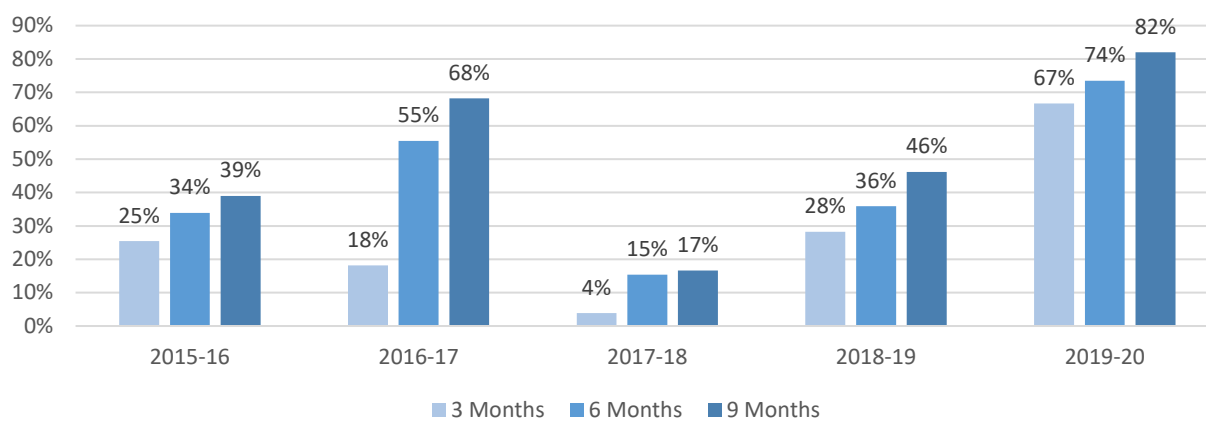


Figure 28

Key Decisions

The Board publishes its significant decisions every two months in its series of reports, called “Ontario Labour Relations Board Reports”. In addition, the Board sends out an email to subscribers of a monthly newsletter called “Highlights”, which is also posted on its website monthly and summarizes significant decisions in the preceding month(s). All decisions released by the Board are available on CanLII.

A summary of some of the Board’s most significant cases in 2019/ 2020 follows, and the full text of these decisions is available on CanLII.

Application for Certification – *Charter of Rights and Freedoms* – *Human Rights Code* – *Natural Justice* – *Practice and Procedure* – *Reconsideration* – In this reconsideration decision, the Board concluded that a page limit for submissions did not violate procedural fairness in the circumstances of the case. The Board also considered the propriety of raising a *Charter* argument for the first time in reconsideration.

KUEHNE + NAGEL LTD.; RE: UNIFOR; 2019 CanLII 31000; Dated April 8, 2019

Trade union – Status – In an application involving the sale of business and related employer provisions, the Board considered the definition of “trade union” under the *Labour Relations Act*, including the Board’s interpretation of the term “organization” and the implications of *Charter* values on statutory interpretation.

INTELLIGARDE INTERNATIONAL INC.; RE: UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION (UNITED STEELWORKERS), LOCAL 5296; 2019 CanLII 70447; Dated July 24, 2019

Interim Relief – Unfair Labour Practice – The Board exercised its power to grant interim reinstatement of a known union supporter to employment, whose employment was terminated during a union organizing campaign. The Board applied its recent decision in *National Judicial Institute*, the Board’s first substantive decision on the interpretation of section 98 of the *Labour Relations Act*, as amended by Bill 148.

MILLER PAVING LIMITED C.O.B. GEORGIAN PAVING; RE: LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 183; 2019 CanLII 80517; Dated August 23, 2019

School Board Collective Bargaining –The Board applied the factors enumerated in s. 28(8) of the *School Board Collective Bargaining Act, 2014*, and made a determination about matters to be bargained centrally as opposed to locally.

THE CROWN IN RIGHT OF ONTARIO; RE: ONTARIO SECONDARY SCHOOL TEACHERS’ FEDERATION; RE: ONTARIO PUBLIC SCHOOL BOARDS’ ASSOCIATION; 2019 CanLII 84798; Dated September 6, 2019

Standing — Appeal of Inspector’s Order — Interim Decision — This decision addressed the right of a student’s parents to intervene and participate in an application under section 61 of the *Occupational Health and Safety Act* (“OHSA”). The application involved an appeal of an inspector’s decision finding that there was no basis for a work refusal initiated by teachers in response to a violent incident from an “exceptional student”. The Board canvassed the case law and legislation and outlined the non-exhaustive factors to be considered when determining whether a person should be permitted to participate in such an appeal.

DUFFERIN-PEEL CATHOLIC DISTRICT SCHOOL BOARD.; RE: ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION; RE: A DIRECTOR UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT; 2019 CanLII 96066; Dated October 8, 2019

Construction Industry - Related Employer Application – Unfair Labour Practice – In this decision, the Board considered whether it should exercise discretion under s. 1(4) of the *LRA* to issue a related employer declaration. The particular circumstances of this case required the Board to balance potential labour relations harm that would result if no declaration was made against the labour relations harm that might result from creating conflicting bargaining rights resulting in jurisdictional disputes.

JACQUES CARRIER & SONS CONSTRUCTION LTD.; RE: LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 183; RE: CFCW CONSTRUCTION INC; 2019 CanLII 114704; Dated November 22, 2019

Access to Documents in Adjudicative Files – Board Policy – Health and Safety – In this decision, the Board considered a request for access to documents in a Board file, notably documents filed with the Board but which had not yet been introduced into evidence, in an application concerning a proceeding commenced prior to effective date of *Tribunal Adjudicative Records Act (TARA)*. The Board reviewed the policy applicable to pre-*TARA* proceedings, and considered the parties' privacy interests in light of the implied undertaking rule and the open court principle, and with consideration to the Board's statutory purpose and procedures.

FIERA FOODS COMPANY; RE: A DIRECTOR UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT; 2019 CanLII 11628; Dated December 2, 2019

Certification – Displacement Application – Electronic Membership Evidence – In a prior decision, the Board had directed that a representation vote be held, pending a decision on the use of electronic membership evidence. The Board has historically required the original version of the membership card be filed with applications for certification. However, in this decision, the Board allowed the applicant to rely on electronic membership evidence. The Board's Rules of Procedure do not preclude electronic membership evidence. It was open to the Board to accept electronic membership evidence provided it met the requirements of the *Labour Relations Act* and the Board's Rules of Procedure. Arguably, the security features used in this case created stronger protections than traditional membership cards.

TORONTO AND YORK REGION LABOUR COUNCIL; RE: UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION (UNITED STEELWORKERS); 2019 CanLII 123094; Dated December 24, 2019

Constitutional Law – Jurisdiction – School Boards Collective Bargaining Act – In this decision, the Board considered its jurisdiction to consider whether the Crown had violated the "statutory freeze" and "duty to bargain in good faith" provisions of the applicable legislation, as well as s. 2(d) of the *Charter*. The Board held that it had jurisdiction to do so, and that the alleged violations of the *Labour Relations Act* and the *School Boards Collective Bargaining Act* were properly before the Board.

THE CROWN IN RIGHT OF ONTARIO; RE: ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION; RE: ELEMENTARY TEACHERS' FEDERATION OF ONTARIO; RE: ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION; 2019 CanLII 117266; Dated December 4, 2019

Certification – Dependent Contractor – Employee Status

In this decision, the Board considered whether the couriers who delivered restaurant take out orders through the Foodora app are dependent contractor or employees under the *Labour Relations Act*. The Board applied its past jurisprudence and determined that Foodora exercised significant control over the couriers. Therefore, the Board found that the couriers were dependent contractors under the Act. This is the Board's first decision with respect to workers engaged in what has been described as the "gig economy".

FOODORA INC. D.B.A. FOODORA; RE: CANADIAN UNION OF POSTAL WORKERS; 2020 CanLII 16750; Dated February 25, 2020

Video Hearing - As a result of the pandemic, the scheduled in-person hearing was cancelled. The Employer opposed proceeding with the case on the merits by way of a video hearing. The Board noted that it had previous experience with video hearings and had conducted full-scale hearings with this technology, including the calling of evidence. The Board concluded there was no prejudice to the Employer and directed that the case proceed by way of video hearing.

MITCHELL HUTCHINSON V. POINT FARMS PROVINCIAL PARK MNR AND A DIRECTION UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT; OLRB File No. 2213-19-HS; March 24, 2020, 2020 CanLII 25912 (ON LRB)

Requests for Access to Documents in the Board's Adjudicative Files

Since the Superior Court Decision in *Toronto Star v. AG Ontario*, 2018 ONSC 2586 (CanLII) and the subsequent enactment of the *Tribunal Adjudicative Records Act* ("TARA"), the Board has received an increased number of requests for documents in its adjudicative files. In anticipation of those requests, the Board amended its Access to Documents and Exhibits Policy and its Rules of Procedure, in accordance with TARA.

During the 2019-2020 fiscal year, the Board received and processed 52 requests for access to documents. Those making requests included parties to a case, the media, other organizations, lawyers not involved in the file and members of the public. The requests sought records in active files currently being heard by Vice-Chairs, files which had been adjourned and older closed files. Many of the files were complex and contained hundreds of pages, if not boxes, of documents which were then reviewed by the Board's solicitors, Vice-Chairs and/or Chair. In most cases, parties were notified and submissions were directed which were then also reviewed. Requests were processed in accordance with the Board's Policy, TARA and the Board's Rules of Procedure, as applicable. The Board issued a number of decisions which further defined the scope of the adjudicative record and addressed requests for confidentiality.

The task of reviewing entire files and each document in detail has proven necessarily more time-consuming than anticipated and requires significant Board resources particularly as the number of requests increases and encompass long -ago closed pre-TARA cases. This has created a new and ongoing pressure on the Board's resources which were not increased to address the enactment of TARA. In light of this trend, the Board will have to reassess this situation to determine the optimal way to respond to TARA requests in an efficient and timely manner.

Court Activity

On April 1, 2019, there were thirty-two Board matters pending before the Courts.

During the 2019-2020 fiscal year, there were fourteen new applications for judicial review of Board decisions filed with the Divisional Court.

Twelve applications for judicial review were disposed of by the Divisional Court. Nine were dismissed on the merits, and three were abandoned.

Twenty-nine applications for judicial review remained outstanding at the Divisional Court on March 31, 2020.

One motion to stay Board decisions was filed pending judicial review. That motion was dismissed.

Four motions for leave to the Court of Appeal were filed during the fiscal year and one appeal was heard on the merits. Three motions for leave to appeal were dismissed on their merits and one was abandoned. The Appeal heard on the merits was granted restoring the Board decision which was quashed at Divisional Court. One Application for Leave to Appeal was filed with the Supreme Court of Canada.

Type of Case	Caseload			Disposed of				Pending March 31, 2020
	Total	Pending April 1, 2019	Received	Total	Granted	Dismissed	Abandoned	
Total	52	32	20	18	1	13	4	34
Divisional Court (Merits)	41	27	14	12	0	9	3	29
Divisional Court (Stay)	1	0	1	1	0	1	0	0
Ontario Court of Appeal (Seeking Leave)	8	4	4	4	0	3	1	4
Ontario Court of Appeal (Merits)	1	1	0	1	1	0	0	0
Supreme Court of Canada (Seeking Leave)	1	0	1	0	0	0	0	1
Supreme Court of Canada (Merits)	0	0	0	0	0	0	0	0

Figure 29

Key Activities with Stakeholder Groups

Advisory Committee: The Ontario Labour Relations Board has established an Advisory Committee whose mandate is to function as a consultative group for the Board. The Committee is composed of members of the labour and management side bar, Director of Legal Services (MOL), representatives from the Ontario Bar Association Labour & Employment Law Section and the OLRB Chair, Alternate Chair, Director/Registrar and Solicitors and acts as a resource to the Board for consultation/feedback. The Committee meets at least three times per year, and more often if necessary. Committee membership and minutes of meetings are posted on the Board's website.

Internship Programs: Collaborative external partnership programs with client labour law firms and postsecondary institutions continue. The program provides opportunities for students currently articling and recent graduates and/or current students of MIR and Labour Studies programs to put their academic training to practical use with a hands-on professional learning experience at the OLRB.

Outreach: Regular community outreach by the Chair, Alternate Chair, Director/Registrar and Deputy Registrar at consultations held with client and stakeholder groups and Town Hall and community meetings where advisable.

These individuals are invited to and routinely speak at professional and stakeholder conferences, conventions, seminars, continuing education programs and meetings. Upcoming events may include:

- Representation at Labour Board conferences
- Conference of Labour Board Chairs and Senior Administrators
- Association of Labor Relations Agencies (ALRA)
- Council of Canadian Administrative Tribunals (CCAT)
- Canadian Institute of Administrative Justice (CIAJ)
- Society of Ontario Adjudicators and Regulators
- Ontario Bar Association
- Canadian Institute of Administrative Justice
- Law Society of Upper Canada

The OLRB provides services in both official languages, including the publication of forms, information bulletins, website messages etc., and strives to ensure the accessibility of our websites and the conduct of hearings. The ability of our clients and stakeholders to readily communicate with the Board in an accessible manner in either French or English -from reception through to adjudication continues to be a priority.

Financial Position

The Board's annual operating budget is part of the Ministry's estimates and allocation process and the Board is required to report regularly on its expenditures and planned commitments.

The Deputy Minister of Labour has delegated authority for specific financial and administrative transactions to the Chair of the Board, the Director and Managers.

The OLRB is subject to audit review and expenditure constraints and its managers are accountable for following established management practices and using public resources for authorized purposes.

Salary expenditures were marginally less than expected due to retirements and consequent recruitment initiatives which were deferred into the next fiscal. Telecommunication expenditures resulted in a savings due to an OPS wide directive which resulted in the removal of landlines for 1/3 of the Board's staff. Additionally, travel costs were lower as a result of deferred conference attendance. Throughout the budget year, services expenses were higher than expected largely due to increased IT costs related to the Board's IT initiatives and the continued utilization of tri-partite panels in adjudicative hearings. The total annual remuneration for all OIC appointees was \$3,248,462.

All figures in \$000.0 thousand

Account	Expenditure Estimates	In-year Board Approvals	Year-end Budget incl. lease	Year-end Actuals	Variance	% Variance
Salaries & Wages	8,159.9		8,159.9	8,118.8	41.1	0.5%
Benefits	1002.1		1,002.1	1,066.7	-64.6	-6.4%
ODOE:						
Transportation & Communication	448.9	285.6	734.5	236.2	498.3	67.8%
Services	3,197.6	170	3,367.6	3,822.4	-454.8	-13.5%
Supplies & Equipment	82.2		82.2	82.8	-0.6	-0.8%
Total ODOE	3,728.7	455.6	4,184.3	4,141.4	42.9	1.0%
Grand Total	12890.7	455.6	13,346.3	13,326.9	19.4	0.1%

Figure 30

Non-Tax Revenue	Revenue
Construction Grievance	\$475.3
Publications	
Subscriptions	\$8.2
Total	\$483.5

Figure 31

Appendix A

Order in Council Appointments

The Board's adjudicators (the Chair, Alternate Chair, Vice- Chairs and Board Members) are all appointed by the Lieutenant Governor in Council as Order in Council appointments (OICs), for a fixed term. The following is a chart of OICs working in 2019 – 2020, their appointment terms and remuneration:*

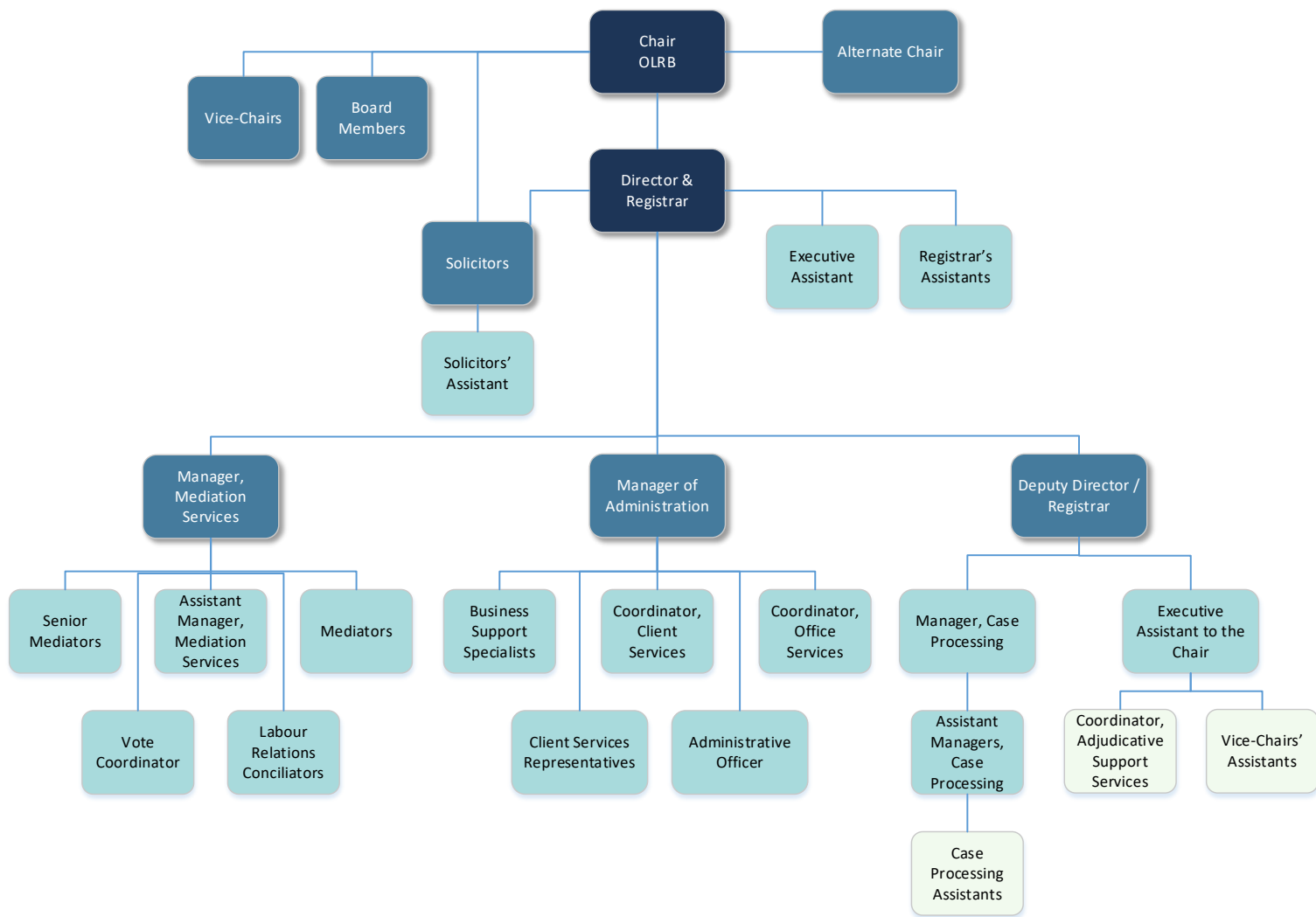
Name	First Appointed	Term of Appointment	Annual Remuneration
Chair			
Fishbein, Bernard	February 28, 2011	February 27, 2021	\$224,349.00
Alternate Chair			
Wilson, Matthew	August 29, 2012	August 28, 2022	\$156,077.00
Full Time VCs			
Anand, Gita	January 15, 2016	May 1, 2019	\$146,311.00
Beatty, Adam	June 30, 2016	December 31, 2021	\$146,311.00
Debané, Geneviève	June 30, 2016	December 31, 2021	\$156,077.00
Kelly, Patrick M.	May 17, 1999	May 17, 2021	\$156,077.00
Lewis, John D.	March 11, 2009	March 10, 2024	\$156,077.00
McCrary, Michael	August 29, 2019	August 28, 2021	\$136,545.00
McFadden, Michael	November 5, 2014	November 4, 2024	\$156,077.00
McGilvery, Roslyn	September 9, 2013	October 30, 2023	\$156,077.00
McKellar, Mary Anne	January 24, 2001	September 1, 2019	\$156,077.00
Mitchell, C. Michael	July 22, 2015	February 27, 2021	\$146,311.00
Ross, David	November 15, 2017	November 14, 2022	\$146,311.00
Ross, Peigi	August 29, 2019	August 28, 2021	\$136,545.00
Rowan, Caroline	May 6, 1999	May 6, 2021	\$156,077.00
Seveny, Yvon	May 25, 2015	May 26, 2020	\$146,311.00
Shouldice, Ronald K. (Lee)	May 30, 2007	May 29, 2022	\$156,077.00
Slaughter, Jack J.	February 3, 2003	February 2, 2021	\$156,077.00
Turtle, Paula	July 22, 2015	July 21, 2020	\$146,311.00
Waddingham, Kelly A.	April 7, 2004	December 31, 2022	\$156,077.00

Name	First Appointed	Term of Appointment	Annual Salary
Part Time VCs			
Beresford, Harvey	October 5, 2016	October 30, 2021	\$32,061.75
Cavé, Johanne	March 7, 2019	March 6, 2021	\$45,014.50
Clarke, Graham	November 2, 2016	November 1, 2021	\$7,190.50
Gedalof, Eli	October 30, 2013	June 30, 2019	\$3,940.00
Gee, Diane L.	August 1, 2008	July 31, 2019	
Gray, Owen V.	May 8, 2013	January 27, 2020	\$12,312.50
Green, Maurice	May 16, 2012	July 8, 2022	\$81,533.38
Hancock, Michael	June 20, 2018	June 19, 2021	\$61,291.63
Kitchen, Robert W.	May 30, 2012	July 8, 2022	\$88,526.90
Kuttner, Thomas	September 11, 2013	October 30, 2023	\$29,845.50
Marvy, Len	May 16, 2019	May 15, 2021	\$23,426.28
McDermott, Edward T.	May 17 2011	May 16, 2021	
McIntyre, Elizabeth	August 31, 2017	August 30, 2019	\$10,120.88
McLean, Brian C.	July 8, 1998	July 7, 2022	\$4,432.50
Nyman, Jesse	February 1, 2016	December 20, 2020	
Rogers, Derek	August 28, 2013	October 30, 2023	\$73,858.29
Salisbury, Robert	May 16, 2019	May 15, 2021	\$23,984.75
P/T Members (Employer)			
Bolton, Lori	March 11, 2015	March 10, 2025	\$4,728.00
Cook, William S.	March 18, 2015	March 17, 2025	\$22,392.99
LeChien, Robert	April 15, 2015	April 14, 2020	\$18,124.00
Martin, Ron	March 25, 2015	March 24, 2020	\$28,121.76
St. Louis, David	February 18, 2015	February 17, 2025	\$11,032.00
Sullens, John (Jack)	February 18, 2015	February 17, 2020	
Taylor, Margaret	November 29, 2017	November 28, 2022	\$3,152.00
Zachar, Wayne	June 22, 2016	December 31, 2021	\$20,389.50
P/T Members (Employee)			
Chudak, Edward	April 1, 2015	March 31, 2020	\$10,244.00
Collins, Thomas	April 1, 2015	March 31, 2020	\$8,668.00
Cronkright, Steven	June 22, 2016	June 21, 2018	\$9,456.00
Dowding, John	June 22, 2016	December 31, 2021	\$17,336.00
Gairey, Jawara	October 19, 2016	October 30, 2021	\$5,516.00
MacDonald, Brian	June 22, 2016	December 30, 2021	\$3,152.00
Nicholls, William	May 6, 2015	May 5, 2020	\$18,124.00
Nielsen, Heino	June 30, 2016	December 31, 2021	\$12,608.00
Phillips, Carol	January 14, 2009	January 13, 2022	\$21,177.50

*Annual remuneration for full-time appointees to the Board is set by a Directive issued by Management Board of Cabinet. The maximum annual salary varies on whether the term of appointment is a first, second or third term. The remuneration actually paid to an individual appointee may be less than the maximum set by the Management Board Directive due to individual circumstances such as a change in term of appointment during the year, sick leave, unpaid leave of absence or time spent by an appointee cross-appointed to another tribunal. Remuneration for part-time appointees to the Board is based on a per diem rate established by Management Board of Cabinet. As a result, annual remuneration set out in the chart above will vary according to work assigned to individual part-time appointees.

Appendix B

Organizational Chart



Accountability Statement

The OLRB's Annual Report for the fiscal year ending March 31, 2020 was prepared under my direction for submission to the Minister of Labour in accordance with the Agencies and Appointments Directive as issued by Management Board of Cabinet.

The Public Accounts of Ontario are the annual financial statements that are prepared in compliance with the requirements of Section 13 of the Ministry of Treasury and Economics Act. The Public Accounts consist of the financial report of the Government of Ontario and the financial reports of each ministry. In accordance with the Ministry of Labour's Delegation of Financial Authority Framework, financial authority is delegated to the agency. Each year the OLRB verifies that all its transactions are reflected accurately and completely in the Public Accounts through the execution of a Certificate of Assurance.

As an agency of the Ministry of Labour, the OLRB's Annual Report is subject to the minimum reporting requirements established in the Agencies and Appointments Directive, including:

- Financial statements that have been audited or subject to the appropriate level of external assurance;
- Analysis of operational performance;
- Analysis of financial performance;
- Names of appointees and term of appointments
- Performance measures, targets achieved/not achieved and action to be taken.

This report covers the fiscal year April 1, 2019 to March 31, 2020.

For More Information

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