

Public Service Grievance Board

ANNUAL REPORT

2017-2018

MESSAGE FROM THE CHAIR

I am pleased to present the Annual Report for the Public Service Grievance Board, which tracks our progress in fulfilling our dispute resolution mandate for non-unionized public servants. The Board has continued to carry out its mandate with skill, integrity and impartiality during the fiscal year 2017-2018, in furtherance of the Board's goal which is always to encourage harmonious workplace relations within the Ontario Public Service. I can report that the Board achieved this goal through the combined efforts of the Board's very capable members and staff.

The Board is now composed of its Chair, Kathleen O'Neil, and four members, Reva Devins, Brendan Morgan, Marilyn Nairn, and Andrew Tremayne, all part-time. All five are professional labour relations adjudicators who bring to the Board extensive experience in the broader labour relations community as well as a particular familiarity with the Ontario public service. Their skill, experience, and professionalism are at the core of the effectiveness of the Board as an independent dispute resolution agency.

The Board's administrative staff continues to be led by Caroline Goodwin, the Board's Secretary. As a part-time Chair, I remain very much in her debt, and in the debt of her capable staff, for the impressive efficiency with which the Board is run. Their work - scheduling, tracking, communicating with and advising our clientele, internal and external, is essential to fulfilling the Board's responsibility to provide the highest quality dispute resolution services, and to be administratively accountable within the larger structure of government. Through their efforts, the Board has been able to meet its administrative responsibilities in a timely, responsible and cost-effective manner.

Kathleen G. O'Neil

Chair, Public Service Grievance Board

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1. PSGB Mandate

The Public Service Grievance Board (PSGB or the Board) is an independent adjudicative tribunal that exercises the powers and duties conferred upon it by the Public Service of Ontario Act, 2006, and O. Reg. 378/07. The PSGB is classed as an adjudicative agency accountable to the legislature through the Minister of Labour. The overall objective of the Board is to provide dispute resolution services between certain management/excluded crown employees and the government as their employer.

The adjudicative independence and neutrality of the PSGB is preserved by its physical location - it is separated from government agencies other than its co-tribunal the Grievance Settlement Board (GSB), and by the fact that the members of the PSGB are labour relations mediators/adjudicators who are prominent and well respected in the broader labour relations community. The Board's Chair and its Members bring to it extensive experience in both mediation and adjudication. When third party intervention is needed, the Board provides mediation or, in the alternative, an expeditious process of adjudication.

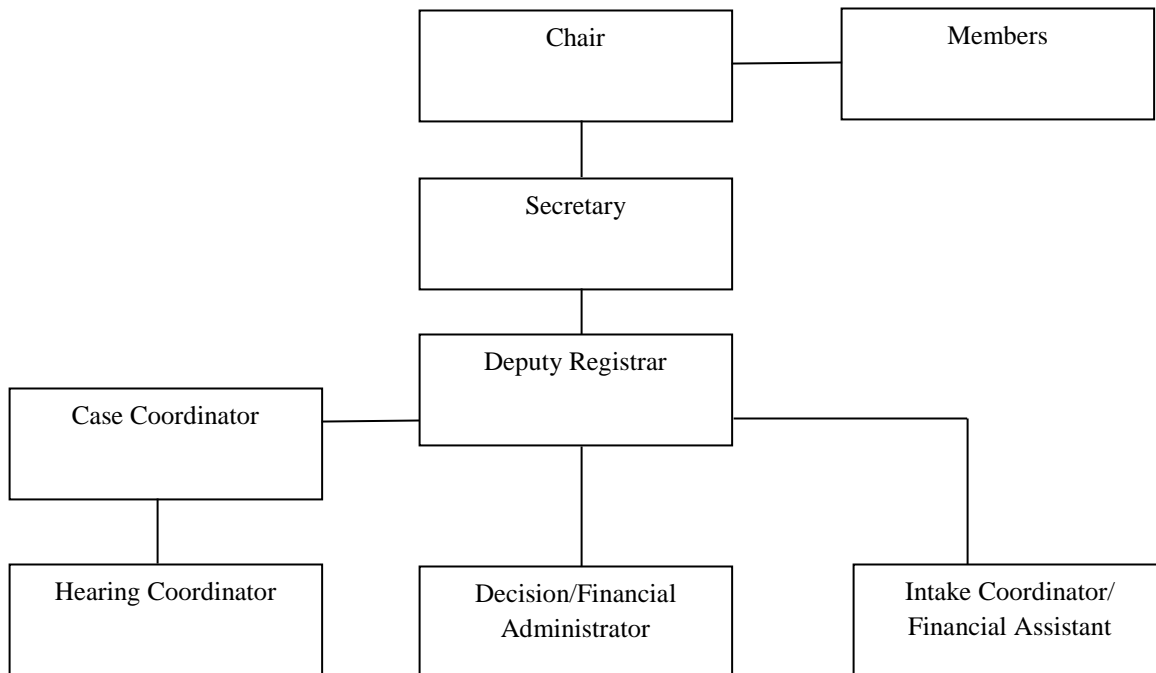
2. Human Resources

The Secretary

Caroline Goodwin

Caroline Goodwin has over 30 years of experience as an administrator in the labour relations field, commencing her OPS career with the Grievance Settlement Board. During her career, she gained broad experience through secondments with the Ministry of Labour, Finance and Administration Branch, the Human Rights Tribunal of Ontario, and the Pay Equity Hearings Tribunal. She has served as the Board's secretary since 2003.

PSGB Organization Chart



3. Order In Council Appointments

List of Appointees – Public Service Grievance Board

Name of Appointee	OIC Appointment	Initial Appointment	Expiry Date of Current OIC
Kathleen O'Neil	Chair	January 5, 2015	January 4, 2020
Reva Devins	Member	January 5, 2015	January 4, 2020
Brendan Morgan	Member	September 13, 2017	September 12, 2019
Marilyn Nairn	Member	January 5, 2015	January 4, 2020
Andrew Tremayne	Member	September 13, 2017	September 12, 2019

Chair

Kathleen O'Neil

Kathleen G. O'Neil brings over thirty years of experience as an adjudicator to her position as Chair, Ontario Public Service Grievance Board. She previously served as Vice Chair of the Ontario Labour Relations Board (1988 to 1997), and of the Workers' Compensation Appeals Tribunal (1986 to 1988). Since 1997, she has been active in her private practice as a mediator and arbitrator dealing with grievances under Ontario and federal labour statutes, as well as a mediator in a wide variety of matters including human rights, employment related disputes, and general civil litigation. Admitted to the Bar of Ontario in 1979, she holds a B.A. from the University of Toronto and an LL.B. (now J.D.) from Osgoode Hall Law School.

Members

Reva Devins

Reva Devins is a full time arbitrator and mediator. She is a Vice Chair of the Grievance Settlement Board and is the Associate Chair under the 1986-90 Hepatitis C Class Action Settlement. She has also been appointed as a mediator/arbitrator under the Walkerton Compensation Plan, the UCC Claims Resolution Plan and was a member of the Canadian Human Rights Tribunal (1995-2005). Ms. Devins was called to the Bar of Ontario in 1985 and holds degrees from York University (B.A), Osgoode Hall Law School (LL.B.) and Harvard Law School (LL.M.).

Brendan Morgan

Prior to his appointment to the Public Sector Grievance Board Mr. Morgan acted as a Mediator and Arbitrator in Ontario for eight years, first with the late Frank Reilly and thereafter as a sole practitioner. Called to the bar in 1990 Mr. Morgan has also practiced exclusively in the area of labour and employment law with a leading Toronto firm and in house with a major building trade union. He holds an undergraduate degree, B.A., from York University, an M.Sc. Econ. from the London School of Economics and an LL.B. from Osgoode Hall Law School.

Marilyn Nairn

Originally from Winnipeg, Marilyn Nairn is a graduate of the University of Ottawa Law School and was called to the Ontario bar in 1982. She practiced labour law in Toronto until 1987 when she accepted the position of counsel to the Ontario Labour Relations Board. In 1989 Ms. Nairn was appointed a Vice-Chair of the OLRB, where she served for three terms, following which she expanded her successful practice as labour arbitrator and mediator. Ms. Nairn is a member of the National Academy of Arbitrators and the Ontario Labour-Management Arbitrators' Association and has held various positions on the executive of the Labour Section of the Ontario Bar Association. She has completed an advanced mediation course at Osgoode Hall Law School, has taught at both the college and university levels in the area of labour law, and has appeared as a speaker on various panels and at conferences in the areas of labour law and human rights. She was appointed to the Grievance Settlement Board on October 31, 2001.

Andrew Tremayne

Andrew has been a full-time arbitrator and mediator since 2014. Before that, he practiced labour and employment law in Ottawa for over 20 years. Andrew is on the Ontario Minister of Labour's list of approved grievance arbitrators (the "section 49 list") and the Federal Minister of Labour's list of eligible grievance and unjust dismissal adjudicators, and he regularly mediates and investigates workplace complaints and disputes of all kinds. He is also the Integrity Commissioner for the Township of Edwardsburgh/Cardinal and the Town of Prescott on an as needed basis. Andrew received his J.D. from U of T Law School in 1991, and he is a member of the Law Society of Upper Canada, the Canadian Bar Association, the Council of Canadian Administrative Tribunals, and the Alternative Dispute Resolution Institute of Ontario.

4. Overview of Activities

PSGB Mission Statement

To provide appropriate dispute resolution services to management/excluded employees and their employers in a fair, impartial and expeditious manner and promote harmonious labour relations in the Ontario Public Service.

Overview of Programs and Activities

By statute, the PSGB is comprised of a minimum of a part-time Chair and two part-time Members. Members of the PSGB bring to it extensive experience as both labour mediators and arbitrators.

The administrative functions of the PSGB are performed by a full-time administrative staff under the direction of the Board's Secretary. For those who use the PSGB's dispute resolution services, the first point of contact is with its administrative staff.

Once a complaint has been filed with the PSGB, mediation is usually the first step in the Board's dispute resolution process. A confidential mediation session provides the opportunity for complainants and their employer to resolve complaints in an expeditious and informal manner. A large proportion of complaints are now successfully resolved through the PSGB's mediation process conducted by one of the Board's members (Chair or Member).

If a complaint cannot be resolved through mediation, it is then scheduled for a full adjudicative hearing. At these hearings, evidence and arguments are presented in a more formal manner. A member of the PSGB (Chair or Member) will preside over the hearing, deal with procedural and evidentiary issues, listen to the evidence and argument, and then prepare a written decision. In more complicated cases the hearing could take longer than one day.

Whether mediation or adjudication is used, it is always the primary concern of the PSGB that complaints be resolved in a fair, impartial, and expeditious manner. In September, 2017, the Board's complement of part-time members was increased to four, to enhance the Board's capacity to ensure expeditious scheduling of our ongoing caseload.

The number of new complaints filed with the Board has experienced a variation over the past four fiscal years, ranging from 143 in 2014-2015, 78 in 2015/2016, 59 in 2016-2017 and 74 in 2017-2018 fiscal years, with an average of 88 new complaints per year. Our active case load was 75 at the end of the fiscal year 2017-2018. (See charts on pp. 10 to 11 below).

5. PSGB Applications Filed By Fiscal

TOTAL # PSGB FILES FOR FISCAL 2014-2015	% of change over previous fiscal	TOTAL # PSGB FILES FOR FISCAL 2015-2016	% of change over previous fiscal	TOTAL # PSGB FILES FOR FISCAL 2016-2017	% of change over previous fiscal	TOTAL # PSGB FILES FOR FISCAL 2017-2018	% of change over previous fiscal
APRIL: 8	60.00% decrease	APRIL: 3	62.50% decrease	APRIL: 9	200.00% increase	APRIL: 3	66.67% decrease
MAY: 3	78.57% decrease	MAY: 11	266.67% increase	MAY: 4	63.64% decrease	MAY: 2	50.00% decrease
JUNE: 67	1240.00% increase	JUNE: 6	91.04% decrease	JUNE: 21	250.00% increase	JUNE: 4	80.95% decrease
JULY: 15	25.00% decrease	JULY: 7	53.33% decrease	JULY: 3	57.14% decrease	JULY: 6	100.00% decrease
AUGUST: 0	100.00% decrease	AUGUST: 1	N/A	AUGUST: 4	300.00% increase	AUGUST: 10	150.00% increase
SEPTEMBER: 6	100.00% increase	SEPTEMBER: 3	50.00% decrease	SEPTEMBER: 3	0.00% decrease	SEPTEMBER: 2	33.00% decrease
OCTOBER: 12	N/A	OCTOBER: 19	58.33% increase	OCTOBER: 1	94.74% decrease	OCTOBER: 8	700.00% increase
NOVEMBER: 1	80.00% decrease	NOVEMBER: 6	500.00% increase	NOVEMBER: 1	83.33% decrease	NOVEMBER: 5	400.00% increase
DECEMBER: 7	74.07% decrease	DECEMBER: 10	42.86% increase	DECEMBER: 1	90.00% decrease	DECEMBER: 2	100.00% increase
JANUARY: 3	70.00% decrease	JANUARY: 3	0.00% decrease	JANUARY: 5	66.67% increase	JANUARY: 13	160.00% increase
FEBRUARY: 8	166.67% increase	FEBRUARY: 3	62.50% decrease	FEBRUARY: 3	0.00% decrease	FEBRUARY: 7	133.33% increase
MARCH: 13	1200.00% increase	MARCH: 6	53.85% decrease	MARCH: 4	33.33% decrease	MARCH: 12	200.00% increase
TOTAL: 143	27.68% increase	TOTAL: 78	45.45% decrease	TOTAL: 59	24.36% decrease	TOTAL: 74	25% Increase
Average New Files Per Month: 12		Average New Files Per Month: 6		Average New Files Per Month: 6		Average New Files Per Month: 6	

6. PSGB Caseload 2017-2018

<i>PSGB Caseload</i>	
Active Cases as at March 31, 2017	59
Cases filed in fiscal 2017/2018	74
Cases re-opened/input in Case Management System	2
Total Active Cases	135
Cases Disposed of:	
By Decision	17
Administrative Decisions without Hearing	0
Settled	28
Withdrawn	15
Duplicate File	0
Total Cases Disposed	60
Active Cases at March 31, 2018*	75
* Active Inventory	
To Be Scheduled	11
Scheduled Continuation	12
Scheduled	30
Decision Pending	2
Settlement Pending	0
Adjourned Sine Die	20
Total	75

7. Financial Information

The Public Service Grievance Board receives its funds through an allocation from the Grievance Settlement Board, which is funded as a budget item of the Ministry of Labour. Expenditures made on behalf of the PSGB are recovered from the Employer and refunded to the Grievance Settlement Board. Note the Chair Remuneration was lower in fiscal year 2014-15 because of periods of vacancy in the Chair position.

The PSGB charges the Employer a \$300 filing fee for each complaint filed at the Board along with the Chair's per diem, administrative, travel costs and hearing rooms booked at the board.

The attributable costs reflect those costs incurred by the Employer that are directly related to the hearing of a particular case such as member per diems, out of town hearing rooms and member travel costs.

Public Service Grievance Board				
	2014-15	2015-16	2016-17	2017-18
Chair Remuneration	42,164.00	56,440.00	63,286.00	63,744.80
Chair Administrative and Travel Costs	0.00	0.00	0.00	0.00
Member Administrative Costs, Board Conference	0.00	0.00	362.98	1,343.27
Member Travel Costs Board Conference	0.00	0.00	0.00	684.08
Subtotal of Chair/Member Costs	\$42,164.00	\$56,440.00	\$63,648.98	\$65,772.15
Administration Fees:				
Total Applications filed	143	79	57	73
New Application Filing Fee (\$300 per Application)	\$41,700.00	\$24,300.00	\$17,100.00	\$21,900.00
Hearing Costs:				
All Hearing Related Costs [including Remuneration and Travel Expenses]	25,776.21	54,711.00	53,595.83	86,736.18
Hearing Rooms Fees at the Board	9,200.00	13,800.00	11,800.00	14,600.00
Subtotal of Hearing Costs	\$34,976.21	\$68,511.00	\$65,395.83	\$101,336.18
TOTAL COSTS**	\$118,840.21	\$149,251.00	\$146,144.81	\$189,008.33
** OIC Per Diem Vice Chairs	\$29,415.00	\$33,576.00	\$48,732.00	\$75,770.00

8. Performance Measures

Measure	2017-2018 Commitments	2017-18 Achievements
Elapsed time to acknowledge receipt of complaint	100% of complaints received to be acknowledged within 30 days.	100% of complaints received were acknowledged within 30 days.
Elapsed time from receipt of Application Form to offering dates	100% of complaints will be offered dates for scheduling within 30 days of receipt of Application Form.	100% of complaints were offered dates for scheduling within 30 days of receipt of Application Form.
Percent of complaints disposed of by settlement, withdrawal or administrative decision	50% of complaints disposed of by settlement, withdrawal or administrative decision	71% of complaints disposed of by administrative decision, withdrawal or settlement.
Timeliness of decisions released by the PSGB	80% of decisions to be released within 90 days of completion of hearing and/or receipt of submissions.	84% of decisions were released within 90 days. The Board released 19 decisions with 16 meeting the commitment of a 90 day release and 3 fell outside the 90 day commitment.
Percent of judicial reviews upheld	100% of decisions upheld on judicial review (i.e. application for judicial review dismissed)	No matters judicially reviewed.