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Workplace Law
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BC Labour Relations Board
600 - 1066 West Hastings Street
Vancouver, BC V6E 3X1

Attention: Jacquie De Aguayo, Chair

Dear Sirs and Mesdames:

**Re: FPSE and Named Faculty Associations – and – PSEA and Named Post-Secondary Institutions
(Section 88 Application: Case No. 2020-001116)**

We represent the Post Secondary Employer’s Association (“PSEA”), and are authorized to file this submission in response to the application filed on behalf of the Federation of Post-Secondary Employers (“FPSE”) and the named Faculty Associations pursuant to Section 88 of the *Labour Relations Code*, RSBC 1996 c. 244 (the “Application”).

Introduction

1. FPSE’s Application attempts to leverage Section 88 of the *Code* in an effort to inappropriately insert itself into a role, which it does not have, as “provincial bargaining agent” in the post-secondary education sector. FPSE is seeking to force what will amount to province-wide bargaining in the sector on issues of distributed learning, faculty workload and supports. It is PSEA’s position that this is an inappropriate use of Section 88 of the *Code* and indeed contrary to the very core of bargaining agency the *Code* creates and protects.
2. FPSE is not an accredited bargaining agent, a trade union or an association of trade unions. It is not a “party” to “a” collective agreement, nor a party to the disputes at issue, and therefore has no standing under Section 88 to bring this Application. Further, the remedies sought in the Application are contrary to the bargaining format established under the *Code*. The Application must be denied on this ground alone.

3. On the merits, PSEA opposes the Application on the following grounds:
 - a. Allowing the Application would undermine and jeopardize critical policy considerations underlying the *Code* and BC's labour relations structure;
 - b. The Application is inconsistent with all this Board's jurisprudence applying Section 88;
 - c. There is no evidence of a "delay" in settling the disputes between faculty associations and their institutions. All evidence supports that the existing collective agreement and labour relations processes are functioning as they are meant to on the timelines agreed to by the parties. These disputes are being addressed through the application and interpretation of their specific collective agreement language, through variance agreements, and/or through the grievance process.
 - d. There is no evidence of "industrial unrest," other than FPSE's veiled threat in the Application of illegal strike action. The evidence reflects the post-secondary institutions have provided substantial supports to faculty during the pandemic, and there is no demonstrable evidence of a mental health crisis among faculty in the sector. Institutions and faculty associations are working to resolve disputes pertaining to additional supports, which necessarily require an institution-based approach, and in some cases at a course-by-course level. These are not issues that can be, or should be, resolved on a province-wide basis.
4. Accordingly, PSEA respectfully requests that the Application be denied and disputes raised by faculty associations be permitted to continue through the labour relations processes created by and protected by the *Code* which are already at work between institutions and their faculty associations. Any other result is an assault on the bargaining principles and structures enshrined in the *Code*.

Application an Improper Attempt to Change Bargaining Format

Code Requirements

5. Section 88 of the *Code* provides:

88 If a difference arises during the term of a collective agreement, and in the board's opinion delay has occurred in settling it or it is a source of industrial unrest between the parties, the board may, **on application by either party to the difference**, or on its own motion,

(a) inquire into the difference and make recommendations for settlement, and

(b) if the difference is arbitrable, order that it be immediately submitted to a specified stage or step in the grievance procedure under the collective agreement or, whether or not the difference is arbitrable, request the minister to appoint a special officer.

(Emphasis added).

6. By its express terms, applications pursuant to Section 88 may only be brought by a “party to the difference.” This must be interpreted in reference to Section 1 of the *Code*, which provides the following definition of “party”:

"party" means a person bound by a collective agreement or involved in a dispute.

7. Further, Section 1 defines a “person” as:

includes an employee, an employer, an employers' organization, a trade union and council of trade unions, but does not include a person in respect of whom collective bargaining is regulated by the *Canada Labour Code*.

8. Finally, Section 1 defines a “dispute” as:

a difference or apprehended difference **between an employer** or group of employers, **and one or more of his or her or their employees or a trade union**, as to matters or things affecting or relating to terms or conditions of employment or work done or to be done

(Emphasis added)

9. The definition of a “person” under the *Code* is clearly intended to apply to those who sign collective agreements under the *Code*, or are bound by them. FPSE does not meet this definition, or the definition of a “party” because it is not a trade union or council of trade unions bound by a collective agreement. Relatedly, FPSE cannot be involved in a “dispute” as defined under the *Code*, again because it is not a trade union or council of trade unions. On those grounds, PSEA submits FPSE cannot have standing to bring an application under Section 88.

Bargaining Structures in the Post-Secondary Sector

10. FPSE is self-described as an advocacy organization within the sector. It is not, however, a trade union or a council of trade unions. It is also not bound by any of the collective agreements applicable to the post-secondary institutions named in the Application (or, for that matter, any institutions not named in the Application). FPSE has no authority whatsoever under the *Code*. It has no legal interest in these disputes.
11. This is self-evident upon a review of the bargaining certificates for the institutions named in the Application. It is also evident upon a review of the bargaining structure in the sector.
12. Although FPSE has positioned itself in the Application as a “provincial” representative, similar to the BCTF in the K-12 education sector, this is simply not the case. Collective bargaining in the K-12 education sector is statutorily mandated to proceed as a two-tiered

system. Under this system, “provincial matters” (as defined by the *Public Education Labour Relations Act*), are bargained at the provincial table between the British Columbia Public School Employers’ Association – the accredited bargaining agent for school boards, and the British Columbia Teachers’ Federation (“BCTF”) - the statutory bargaining agent for all teachers in the province. The provincial bargaining agents delegate the bargaining of “local matters” to boards of education and local teacher associations for ratification by the bargaining agents.

13. By contrast, there is no statutory two-tiered bargaining in the post-secondary education sector, and FPSE is not a bargaining agent for any faculty associations in the post-secondary education sector. In this sector, PSEA is the accredited bargaining agent for institutions, and faculty associations are the certified bargaining agents for faculty at each institution. Collective agreements are between PSEA – on behalf of the post secondary institution - and the faculty association for that institution. FPSE is not a bargaining agent nor is it a party to a collective agreement in the sector. FPSE is not an accredited association of trade unions.
14. Since the creation of PSEA in the mid-1990’s, the institutions and faculty associations have engaged in a voluntary *ad hoc* bargaining framework referred to variously as the “Common Table,” “Template Table” or multi-institutional discussions (“MID”). Prior to negotiations commencing for any particular round, institutions and their faculty associations determine whether they wish to participate in the MID. A protocol agreement is reached setting out the matters which may be discussed at the MID. Institutions only participate at the MID, and are bound by the resulting Memorandum of Agreement, for a particular round of bargaining if both the institution and the faculty association agree to participate for that round. Each round the participating institutions and faculty associations must determine whether or not to participate.
15. Negotiations at the MID are coordinated by PSEA as bargaining agent for the institutions and FPSE as a coordinator for the faculty associations. The resulting Memorandum of Agreement is ratified and signed by PSEA and all the faculty associations participating in the MID. FPSE does not sign the Memorandum of Agreement at the MID, nor does it ratify or sign any collective agreement in the sector. This is consistent with the MID protocol agreement, which defines a “party” to the MID as either the faculty association or the institution. FPSE does not fall under either of these categories.
16. Institutions and faculty associations participating in the MID also engage in bargaining on all other matters not covered by the protocol agreement for the MID. If an institution and faculty association participate in the MID, their resulting collective agreement will include both the terms agreed to at the MID and the terms agreed to between the Institution and the faculty association.
17. Institutions and faculty associations who do not participate in the MID conduct bargaining as any other employer and association would do, except that PSEA is the accredited bargaining agent and ratifies the collective agreement.

18. FPSE has no role in ratification of the MID or of agreements between faculty associations and an institution/PSEA and is not a party to the resulting collective agreements.
19. This voluntary and ad hoc bargaining format means that institutions may never be part of the MID or may flip back and forth from participating in the MID or not participating in the MID over time. The interaction between collective agreement language negotiated at the MID and language negotiated between institutions and faculty associations directly is complex. Needless to say, the very nature of bargaining in this sector results in a vast array of different collective agreement language formulations on many issues, including the issues arising in the Application.

“Provincial Parties” Paradigm is False

20. The tenor of the Application suggests that there are two provincial parties to a provincial collective agreement – PSEA for the employers and FPSE for the unions – who have rights under the *Code*. As is demonstrated above, this is simply untrue.
21. There are nineteen institutions in the sector represented by PSEA. Seven participated in the last round at the MID. FPSE has named only five of those faculty associations and has added another six who did not participate in the last round at the MID.¹
22. The Board has recognized that FPSE does not have bargaining authority. In *641962 B.C. Ltd. (c.o.b. Greystone College) (Re)*, [2014] B.C.L.R.B.D. No. 197, this Board considered a Section 12 application brought against the Education and Training Employee Association (“ETEA”). In discussing the parties and background to the dispute, this Board implicitly recognized that membership in FPSE, and bargaining assistance from FPSE, did not convey bargaining agent status (at paras 3-4 and 62):

3 The ETEA is the certified bargaining agent for instructors at the Employer. The Federation of Post-Secondary Educators of BC (“FPSE”) “is a federation of faculty associations formed in 1980 to provide educators at British Columbia post-secondary institutions with a provincial voice”. The **“ETEA is affiliated with FPSE, but is an autonomous union”**.

4 There have been five previous collective agreements between the Employer and the ETEA, the most recent of which expired on December 31, 2013. In the bargaining for a new collective agreement, the parties met for 14 bargaining sessions between January and May 23, 2014. **A staff representative from the FPSE, Sean Hillman, assisted the ETEA in the negotiations for the new collective agreement.**

...

¹ See Appendix A for a summary of the named post-secondary institutions.

62 ... It is the ETEA which is the certified bargaining representative for employees in the bargaining unit at issue and it is the ETEA which owes them a Section 12 duty. **While the ETEA may have made arrangements to associate itself with the FPSE for various purposes, including the use of Hillman's services, the responsibility under Section 12 remains with the ETEA and not the FPSE.**

(Emphasis added)

23. Similarly, the fact that various faculty associations have chosen to affiliate themselves with FPSE does not confer any representative authority on FPSE under the *Code*.

FPSE Is Seeking To Expand Its Role through the Application Contrary to the Code

24. Despite the fact that it lacks any representative authority under the *Code*, FPSE has nevertheless brought an Application which seeks to expand its role beyond that permitted by the *Code*, as a third party with no legal interest in the individual disputes at issue.
25. Ironically, FPSE's expansive position in the Application is contrary to the positions FPSE took on the same issues early in the pandemic. For example, in June 2020, FPSE took the position that institutions were not applying their collective agreement language and that institutions were not "following established ways of dealing with conflict". (We note, FPSE took this position despite many institutions being engaged in discussions with their faculty associations both informally as well as formally pursuant to grievances relating to the interpretation of distributed learning language in various collective agreements.) Yet now FPSE seeks to circumvent these processes established by and under the *Code* and disregard the application of binding collective agreement language.
26. FPSE's requested remedy underscores the inappropriateness of the Application and its illegality. Notwithstanding that only 11 faculty associations out of 19 post-secondary institutions have chosen to associate themselves with the Application, FPSE seeks a "provincial agreement" on workload and a "robust, mediated process including consultation and joint development of policy" and the "creation of provincial processes" regarding workload concerns. Further, it seeks all of this on an "expedited" basis.
27. FPSE's requested remedy cannot be lawfully granted by the Board in any event. FPSE demands discussions and processes which are contrary to the bargaining format in the sector and which purport to bind faculty associations who chose not to associate themselves with the Application. Demanding a bargaining format which is contrary to the format established by the Board through due process under the bargaining agency provisions of the *Code* is an assault on the *Code* and has no protection under the *Code*.
28. The Board's jurisprudence on the duty to bargain in good faith in relation to the format of bargaining underscores this point. The critical starting point for collective bargaining is the bargaining unit, as it is in respect of those employees to which a union's exclusive bargaining

rights apply. As explained by the Board in *Northwood Pulp and Timber Limited et al.*, BCLRBD No. B271/94 (“*Northwood*”):

“In the absence of mutual agreement, negotiations must take place in accordance with the exclusive bargaining rights held by the trade union, i.e., the scope of the certified bargaining unit.”

29. *Northwood* arose in the context of a long history of multi-employer, industry-wide bargaining in the pulp and paper industry. There, two employers sought to bargain individually with the local union certified to represent the employees at their operations, and the local unions insisted on industry-wide bargaining. The Board held that the unions could not strike over the format of collective bargaining, and ordered that they cease and desist from refusing to bargain except on an industry-wide basis. In the circumstances of that case, the Board required the unions to bargain based upon their underlying certifications.
30. This was expounded upon in *Interior Forest Labour Relations Association (“IFLRA”) (Re)*, [1999] BCLRBD No. 179, wherein the Board held it was bad faith bargaining to withdraw an IFLRA member company from industry negotiations to bargain individually after meaningful industry bargaining was underway. In that case, there was evidence the parties had voluntarily recognized a multi-party bargaining structure, and thus an attempt to pursue a different format beyond the stage of impasse was a failure to bargain in good faith. The Board stated:

“the force and effect of the *Northwood* policy is that both employers and local unions affected by this decision can insist upon adherence to the multi-party bargaining structure they have created by agreement in the absence of agreement by the other to a different structure.”
31. As these cases and their progeny establish, bargaining format contrary to that which has been established under the *Code* does not enjoy the protections of the *Code*. A strike or lockout over such a bargaining format does not enjoy the protections of Part 5 of the *Code*. The Board’s consistent jurisprudence is that a party to a collective agreement cannot be forced by mechanisms under the *Code* to deal with an entity that is not a bargaining agent authorized by the *Code*.
32. FPSE is attempting to apply the “Arbitration Procedures” established under Part 8 of the *Code* to force its preferred “format” in the present situation even though that “format” is contrary to the format established under the *Code* and would force a bargaining agent to deal with an entity that is not a bargaining agent and not a party to a collective agreement in respect of a dispute which very clearly arises from collective agreement language. The audacity is breathtaking.
33. It cannot be overlooked that Section 88 resides in Part 8 of the *Code*. Section 82(1) of the *Code* states:

“It is the purpose of this Part to constitute methods and procedures for determining grievances and resolving disputes under the provisions of a collective agreement without resort to stoppages of work.” [emphasis added]

34. The phrase “under the provisions of a collective agreement” grounds the meaning of Section 88 and makes it clear that the purpose of Part 8 of the *Code* is to assist parties to a collective agreement to resolve their disputes or differences during the term of a collective agreement.
35. Section 88 must be read in this context. It is not the purpose of Part 8 to disregard Parts 3 and 4 of the *Code* and clothe a stranger to 19 different collective agreements with bargaining agency over all of them.
36. PSEA’s participation at the MID with FPSE representatives is entirely voluntary and cannot be compelled given the bargaining agency structure in the sector. The only lawful way FPSE can require PSEA to engage with it in any discussions whatsoever is to take the necessary steps under the *Code* to become a bargaining agent. It cannot lawfully use Section 88 to circumvent bargaining agency established under and protected by the *Code*.
37. No matter how “useful” FPSE wishes to appear to its affiliated faculty associations, it cannot pervert the purposes of the *Code* and the application of Section 88 to further this objective.

FPSE Cannot Legitimize the Application by Filing Jointly With Faculty Associations

38. In the event FPSE seeks to try and legitimize the Application by taking the position that it is filing the Application jointly with certain faculty associations in the sector, PSEA submits this technical maneuver is insufficient to overcome the fundamental flaw in the Application.
39. A similar issue was considered by the Ontario Labour Relations Board in *Plan Group Inc.*, [2003] OLRD No. 600. There, the Board was considering a grievance arising under a provincial collective agreement in the construction industry, alleging failure to pay appropriate rates for travel time. The provincial agreement contained master agreement provisions applying to all parties under the agreement, and local appendices specific to certain craft locals (two of those locals being Local 105 and Local 353).
40. The thrust of the grievance alleged that members of Local 353 had not been paid appropriately for travel time under the provisions of the Local 353 Appendix. The application before the Board, however, was filed jointly by Local 353 and Local 105. The employer objected that Local 105 did not have standing alone, or together with Local 353, arguing that Local 105 did not have a legal interest in prosecuting an alleged violation arising under the Local 353 Appendix. The employer described Local 105 as the proverbial “officious intermeddler,” seeking to protect its commercial interests by pursuing the matter together with Local 353.

41. The Board found that standing cannot be derived from another party with standing, but rather is dependent upon a party's legal interest in the matter, stating at paragraphs 17 and 18:

17 In my view, the test for whether a party has standing in a proceeding before the Board under section 133 of the **Act is not dependent upon whether it has joined with another party that clearly does have standing to participate, but rather is a function of whether that party has a legal interest in the proceeding.** In DOUG CHALMERS CONSTRUCTION LTD., SUPRA, the Board at 614-15 noted after holding that merely because a union was a party for purposes section 133 of the Act:

Whether it has standing to participate in a hearing on the merits of a grievance is determined by the Board based on the circumstances of the case in which it is seeking to participate. In our opinion, that determination differs from determining whether it is a party under section 133 of the Act.

18 Whether a party has a legal interest in the outcome of a proceeding is dependent upon whether that party will be directly affected by the result...

(Emphasis added)

42. The Board went on to hold that Local 105 did not have standing, either by virtue of having joined with Local 353 or by virtue of being a party to the same master agreement:

20 While it is clear that both Local 105 and Local 353 filed this grievance and that counsel for the applicants has been retained and instructed by both applicants to pursue their grievance before the Board, **simply because Local 105 has joined with Local 353 to bring this grievance does not, in my view, give it standing to participate in this proceeding if it would not otherwise have such standing.** Simply put, Local 105 must demonstrate that it has the legal right to initiate and pursue this grievance claiming a violation of the Local 353 Appendix by Plan before it is entitled to participate jointly with Local 353 or at all in this matter.

21 It is readily apparent that Local 105 has a legal interest in ensuring that the work performed on the project within its geographic jurisdiction complies with the master portion of the Principal Agreement and the Local 105 Appendix and that members of both Local 105 and Local 353 are paid in accordance with the Local 105 Appendix while performing work at the project. It is clear that the jurisdiction of Local 105 does not extend to enforcing the provisions of the Local 353 Appendix in relation to members of Local 353 who do not work on projects within the geographic jurisdiction of Local 105, in the same way that Local 105 would not have the jurisdiction to enforce the provisions of the Local appendices in any other parts of the province.

22 Thus, the question is whether the fact that members of Local 353 are working within the geographic jurisdiction of Local 105 by reason of the mobility provisions found in the master portion of the Principal Agreement enables Local 105 to enforce the Local 353 Appendix.

23 In my view, it does not. Local 105, although suggesting it has a legal interest in ensuring that the travel obligations in the Principal Agreement are enforced to preserve to the extent possible the work opportunities of its members, is in the same position as any other person or union bound by the Principal Agreement in respect of its application and enforcement. **If they are not immediate parties to the dispute, then their interests are indirect. They might be incidentally or commercially affected by the result, but they would not be given standing to participate merely because they are bound by the same agreement.** See ONTARIO POWER GENERATION INC., unreported, Board File No. 0979-02-G, decision dated December 16, 2002 in which the Board wrote at paragraph 4:

Similarly, the Board has denied status to parties who assert that they are bound to the same or similar contractual language that the Board is going to interpret, and wish to be present to argue the meaning of those contractual provisions when they are adjudicated for the first time (see CANADIAN ELEVATOR MANUFACTURERS ASSOCIATION, [1976] OLRB Rep. April 574).

To open up proceedings under section 133 to anyone claiming some interest in the result would seriously impair the Board's and the parties' ability to bring about a prompt resolution of disputes. While Local 105 is bound by the Principal Agreement, it does not, in my opinion, have any legal interest in the operation or administration of the Local 353 Appendix. Ensuring a consistent interpretation and application of a provincial agreement is a role that rests with the respective bargaining agencies.

(Emphasis added).

43. Notably, *Plan Group Inc.* denied status to an entity which arguably had a much more substantial connection to the dispute than FPSE does here. Local 105 met the definition of a “party” under the Ontario Act, and was bound by the collective agreement at issue. PSEA submits that reasoning of *Plan Group Inc.* is persuasive, and that a similar result is warranted in these circumstances particularly because FPSE has a far more tenuous connection to the disputes at issue. FPSE should not be permitted to remedy its lack of standing by filing the Application jointly with some of the faculty associations in the sector. FPSE has no legal interest in the disputes underlying the Application, and any interest it may have as an outside observer is incidental or commercial. FPSE cannot be permitted standing in this matter in order to advance an agenda of changing the bargaining format established under the *Code*.
44. The result would be that while individual faculty associations could each bring their own Section 88 applications, if they wished – we note that only 11 faculty associations have chosen to associate themselves with the present Application, the requested remedy would have to adhere to the bargaining agency established under the *Code* and be between the individual faculty association and institution represented by PSEA. Once the bargaining agency is respected, it becomes clear that there is no proper purpose of the present Application since 1) the Application does not even represent the entire sector and 2)

institutions and faculty associations are, as set out below, already engaged in robust discussions concerning workload concerns and supports for remote learning and have been engaged in those discussions using the lawful and proper processes set out in their collective agreements established under the *Code*.

45. The sole objective of the Application is laid bare in the remedy it seeks. Its purpose is to force a “provincial” bargaining format which is contrary to the *Code*. Not only is this an affront to the *Code* itself, but it is particularly concerning since only a portion of the faculty associations in the sector have supported the Application. The Application must be rejected on this basis.

The Application is an Inappropriate Use of Section 88

46. Further, and in any event, even if individual faculty associations had made individual Section 88 applications seeking individual remedies along the lines of those set out in the Application, the substance of those applications (and by extension the present Application) would run afoul of the *Code* and the purposes of Section 88. Properly considered, the Application suggests that any time a union so desires, it can come to the Board and have the Board overrule existing and well-established contractual and statutory labour relations processes already being utilized.
47. FPSE’s inappropriate attempt to utilize Section 88 in these circumstances is contrary to sound labour relations policy, the facts, and the Board’s own jurisprudence on Section 88.

Policy Considerations Do Not Support Application of Section 88

48. There are solid policy reasons why the Application is not an appropriate use of Section 88. Certainly, there exist disputes every day in every collective bargaining relationship. The mere presence of a dispute does not automatically justify the Board’s intervention under Section 88. The language of Section 88 does not allow this, and the use of this section in this manner runs afoul of Section 2 of the *Code* which provides:

2 The board and other persons who exercise powers and perform duties under this Code must exercise the powers and perform the duties in a manner that

(a) recognizes the rights and obligations of employees, employers and trade unions under this Code,

(b) fosters the employment of workers in economically viable businesses,

(c) encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees,

(d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing

workforce skills and developing a workforce and a workplace that promotes productivity,

(e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes,

(f) minimizes the effects of labour disputes on persons who are not involved in those disputes,

(g) ensures that the public interest is protected during labour disputes, and

(h) encourages the use of mediation as a dispute resolution mechanism.

49. Allowing unfettered recourse to Section 88 at the mere existence of a dispute fails to recognize the rights and obligations of employers and unions to utilize their existing, agreed-to dispute resolution processes, and undermines any cooperative participation between employers and unions in resolving workplace issues.
50. The Application defines the “difference” between the parties as a “failure to negotiate” support for remote learning, and a failure to discuss institutions’ COVID-19 responses *with FPSE*. Drawing on PSEA’s argument above with respect to FPSE’s lack of standing, it submits that there is no statutory or contractual obligation for PSEA to discuss or negotiate any of these issues with FPSE, a third-party advocacy organization. Accordingly, there is no “dispute” or “difference” and as outlined above it would be inappropriate to allow Section 88 to be leveraged into forcing province-wide discussions or bargaining with a non-bargaining party.
51. Institutions are not required to negotiate new rights and entitlements outside of the bargaining format established under the *Code*, and therefore any alleged “failure to negotiate” something which cannot be required under the *Code* cannot constitute a valid “difference” for purposes of Section 88.
52. Further, some institutions have entered into variances where current collective bargaining language does not make sense in the current COVID-19 context, but not for purposes of creating new rights and entitlements. Other institutions have engaged the grievance process where the parties cannot agree on the interpretation of their existing collective agreement language as it may pertain to distributed learning. In either scenario, the “difference” remains between the institution and its faculty association, and PSEA as bargaining agent.
53. At paragraph 17 of the Application, FPSE submits that the Board should intervene under Section 88 “to avoid labour unrest in the post-secondary education sector.” Paragraph 29 goes further still in suggesting that “Given the overall dissatisfaction, there is some risk that groups of educators may consider job action against Post Secondary Employers.” This is an

open threat of an illegal strike which could expose FPSE, and any faculty association supporting such a position, to sanctions under the *Code*.

54. Allowing access to Section 88 at the mere mention of “labour unrest” would encourage all unions to make similar threats of unlawful strikes in order to avoid existing collective agreement processes. FPSE is saying that employees “may” do something illegal, therefore you must grant the Application. Acceding to this demand would set an extremely dangerous precedent which would dismantle the modern structure of orderly labour relations which the *Code* was established to protect.
55. It is a fundamental premise of the *Code* that employees who are “dissatisfied” are not entitled to engage in job action. They are to “work now and grieve later”. What is the point of this principle if a union can simply threaten illegal job action and bypass the grievance procedure altogether by claiming that Section 88 applies?
56. Further, it must be remembered that the issues raised by FPSE in relation to the 11 faculty associations associated with the Application are not unique to them. The remaining faculty/instructor associations as well as numerous bargaining units of vocational instructors (typically represented by BCGEU) are also faced with the same issues arising from COVID-19 but are using lawfully established mechanisms for working through those issues rather than making threats of illegal job action. Further still, all sectors of the economy and society have been impacted by COVID-19. If all that is required is the statement that employees may engage in an illegal strike in order to have the Board intervene under Section 88, then there is no rational basis upon which to distinguish the present Application from any other application filed by a union or group of unions who have determined it provides a tactical advantage in asserting a bargaining format they desire or in overriding existing legal structures for dispute resolution.

This Board’s Decisions Do Not Support Application of Section 88

57. The Board’s jurisprudence on Section 88 does not support its application in these circumstances. Section 88 has been applied extremely sparingly – only seven times, and never in circumstances such as those presented in the Application.²
58. Section 88 only applies to a difference arising during the term of a collective agreement in two circumstances: 1) where delay has occurred in settling the dispute, or 2) where the dispute is a source of industrial unrest. A review of the Board’s jurisprudence follows.

² The Board utilized Section 97 (now Section 88) to refer a contracting out dispute to arbitration in *MacMillan Bloedel Alberni Ltd. and Canadian Paperworkers Union, Local 592* (November 1, 1976), BCLRB Letter Decisions (Vice-Chairman: Peck). However, this decision does not outline the Board’s basis for doing so, but rather only summarizes the parties’ agreement to refer the matter to arbitration.

Application of Section 88 in the Context of Delay

59. The Board has only ever utilized Section 88 under the auspices of “delay” to refer a discrete dispute to arbitration that has been unusually delayed or barred from the arbitration process on procedural grounds.
60. In *Rio Tinto Alcan Inc.*, [2015] B.C.L.R.B.D. No. 105 (Terai) (“*Rio Tinto 1*”), the employer had previously applied to the Board, requesting that the union’s application and complaint be deferred to the grievance and arbitration procedure; this request was granted by the Board. Following that decision, when the union sought to have the difference referred to arbitration, the employer then took the position that the union had to file a new grievance and exhaust the grievance procedure in the normal course before proceeding to arbitration. In those circumstances, the Board allowed the union’s application under Section 88 to elevate the grievance to the final stage of the grievance procedure in order to refer the matter to arbitration.
61. In *Castlegar and District Hospital*, [2002] B.C.L.R.B.D. No. 318 (Kearney), a matter had been previously referred to an arbitrator who ultimately died. The employer then refused to allow the union to pursue the grievance, alleging that too much time had passed. Utilizing Section 88, the Board ordered the grievance be submitted to the final stage in the grievance process and allowed the appointment of new arbitrator.
62. In *BCIT (Re)*, [2010] B.C.L.R.B. No. 167, the dispute at issue centred on the enforceability of various memoranda of agreement appended to the collective agreement. The employer sought a declaration from the Board to delay bargaining pending arbitration of the dispute, but neither party disputed that the issue was arbitrable. The Board refused to delay bargaining, but did allow under Section 88 for the dispute to proceed to arbitration at the earliest opportunity.
63. In *MR Fire Protection Ltd. (Re)*, [2013] B.C.L.R.B.D. No. 90, the dispute centered upon the Joint Conference Board’s refusal to vet a grievance, which was a necessary pre-requisite in the parties’ agreement before a matter could be referred to arbitration. The employer did not appear at the hearing, and the application proceeded unopposed. The Board, utilizing Section 88, ordered the grievance could be submitted to arbitration.
64. Finally, in *Commonwealth Construction Co. Ltd. and International Union of Operating Engineers, Local 115* (December 20, 1982), L370/82 (Vice-Chairman: Black), the Board considered a dispute arising under a multi-employer agreement with respect to subcontracting and jurisdictional boundaries. The employer association (CLRA) on behalf of the employer had refused to arbitrate the dispute as requested by the union, and therefore the union applied for redress under Section 97 (now Section 88). The Board ordered the matter referred to the umpire of the Jurisdictional Assignment Plan, as provided for in the parties’ collective agreement.

65. In this case, the “delay” upon which FPSE wishes to use Section 88 is wholly different from the cases above. Here, there are no procedural delays or barriers being raised by PSEA or institutions which are preventing disputes over remote learning from working their way through each institution’s grievance process, culminating in arbitration referrals by a number of faculty associations.³
66. As discussed in more detail below, the grievances which have been filed are working through this process on the timelines agreed to in the parties’ collective agreements. Through this process, some grievances have been withdrawn, some have been resolved, others are at late stages (Steps 2 and 3) of the grievance process, and several others have already been referred to arbitration. At least one institution and its instructors represented by the BCGEU have also utilized the Joint Administration and Dispute Resolution Committee (“JADRC”) process for assisting in addressing their dispute prior to referring the matter to the parties’ grievance process.⁴ There is no evidentiary foundation for asserting that parties have been or will be denied recourse to arbitration if each faculty association so desires.
67. PSEA also submits that any allegation of “delay” is undermined by FPSE’s inconsistent position in the simultaneously filed Section 54 applications. For purposes of the Application, FPSE argues the “delay” has amounted to at least 9 months’ time, calculating the commencement of the dispute from the start of the COVID-19 pandemic in March 2020. Yet, where it suits FPSE’s purposes to establish the timeliness of the Section 54 applications, it has argued the same disputes at issue did not crystalize until September 2020. This overt and self-serving manipulation of the timelines at stake establishes FPSE’s claims of delay to be artificial and insincere.

Board Decisions Applying Section 88 (formerly Section 97) in Context of Industrial Unrest

68. Historical Board decisions have also utilized Section 97 of the *Code* (now Section 88) in extremely limited circumstances of “industrial unrest.” For example, in *B.C. Hydro (Transit Division) and Amalgamated Transit Union, Division 101-134* (April 1, 1980), L#50/80 (Vice-Chairman: MacDonald), a dispute arose with respect to the employer’s new “sign-up” procedures for bus schedules, and the discontinuance of the use of “pool cars” at two transit centres. The union boycotted the new sign up procedure, job action which ultimately landed the parties before the Board. When meetings to discuss potential resolutions with the Board were unsuccessful, the employer brought an application pursuant to Section 97 of the *Code* to refer the matter to arbitration for final and binding resolution. The parties agreed the matter was arbitrable, and the Board issued the matter to arbitration pursuant to the terms of the parties’ collective agreement.

³ As of the date of filing this Response, the faculty associations at Selkirk College, Coast Mountain College, College of New Caledonia, College of the Rockies, and Douglas College have all advanced at least one grievance to arbitration. Arbitration dates have been set for the College of New Caledonia, Coast Mountain College and Selkirk College grievances.

⁴ Coast Mountain College and its BCGEU Instructors.

69. In *British Columbia Hydro and Power Authority and International Brotherhood of Electrical Workers, Local 258* (February 22, 1978), BCLRB Letter Decisions (Vice-Chairman: Peck), a substantial dispute arose between the parties with respect to staffing of crews working on energized conductors. The employer characterized the dispute as a manning issue, while the union characterized it as a safety issue with manning implications. The parties referred the issue to their joint Safety Practices Committee, with the union issuing an interim directive to their membership on staffing energized conductors. The parties disagreed as to whether the decision of the Safety Practices Committee was a “determination” or an invitation for further submissions, and as a result disagreed as to whether or not the interim directive continued to apply. The employer applied pursuant to Section 97 to have the matter referred to the Safety Practices Committee for final determination, including determination of whether it was ultimately a manning or safety issue.
70. The focus of the Board’s analysis, however, was what procedure should govern in the interim while the Safety Practices Committee was resolving the dispute. The Board had before it evidence of actual work stoppages taking place:

In the meantime, incidents are occurring which according to information received this morning may lead to a general work stoppage on the part of the distribution line crews in the Fraser Valley. Certain of these incidents allegedly surround requests by crews for additional help and the refusal of the employer to provide it with the result that assignments are not completed and crews are ceasing work at least until such time as fresh assignments are made. The employer has taken the position that there will be no pay during such periods of no work. Obviously, such incidents, if not brought under control, could cause serious industrial unrest.

71. As a result, the Board made the recommendation to the parties that in the interim they “recommit” themselves to the long standing commitment set out in Article 30 of their collective agreement:

Where any tradesman deems it unsafe for him to undertake work alone, or where safety regulations requiring additional help, it shall be his duty to notify his headquarters or, if this be impossible, summon such help as is required. If any question arises as to the judgment used, the matter shall be referred to the Safety Practices Committee for determination.

72. Not only did the Board ultimately refer the parties back to their own established bargaining language and processes, but it also strongly cautioned against manufactured disputes, stating:

We will not presume to spell these out, however it is plain that if a workman needs help, and asks for it, he is to receive it, and if any question arises in that process, that shall be dealt with subsequently, by the Committee. **However, if the “need” is contrived, it would constitute an abuse of this critically important section of the agreement, which must be interpreted in terms of its spirit and intent if it is to be truly effective.**

(Emphasis added)

73. In the Application, FPSE has presented no evidence of work stoppages or job action. It has only baselessly threatened that there is “some risk” that “groups” of educators “may consider” job action, which is a far cry from the concrete evidence of actual work stoppages and boycotts that were taking place in the cases cited above.
74. FPSE cites several decisions in support of their argument that the “difference” between the parties is causing “industrial unrest” (*See, Island Medical Laboratories Ltd. v. H.S.A.B.C.*, [1993] B.C.L.R.B.D. No. 329, *Victoria (City) v. City Hall Employees' Assn., Local 388*, [2005] B.C.W.L.D. 4117), and *Pacific Press Ltd. v. G.C.I.U., Locals 525-M & 25-C*, [1996] B.C.L.R.B.D. No. 146). None of these cases arise under Section 88 of the *Code*, and therefore none of these cases are interpreting “industrial unrest” as it is meant to apply under that section. Rather, these cases all arise under the Board’s jurisprudence on proliferation of bargaining units which address the unique considerations that arise in jurisdictional disputes and the Board’s consideration of the appropriateness of a bargaining unit. Those considerations are simply inapplicable to the determination of whether or not there is a difference causing “industrial unrest” in which the Board should intervene under Section 88.

Board Has Declined to Use Section 88 in Other Circumstances

75. This Board has considered the use of Section 88 in several other contexts but has declined to do so. One such context is where there is no evidence the delay in processing through the grievance process is the fault of the other party, or where the delay can be contributed to both parties. In *National Glass Ltd.*, [2014] B.C.L.R.B.D. No. 61 (Miller), for instance, the Union’s application under Section 88(b) was made where there was no evidence the employer delayed the union’s grievance in proceeding to arbitration. Rather, the Board attributed any delay to the Union in bringing its applications before the Board.⁵ The Board ordered the dispute to proceed per the ordinary grievance process set out in the collective agreement.
76. This also occurred in *Rio Tinto Alcan Inc.*, [2015] B.C.L.R.B.D. No. 153 (Terai) (“*Rio Tinto 2*”), where the union raised a dispute regarding the assignment of daily shift jobs. The union had not filed a grievance prior to pursuing its Section 88 application,⁶ but claimed that there existed inherent delay in the grievance process, which Arbitrator Larson described in a prior arbitration decision as being in a “state of collapse” due to the parties’ 420 active grievances. Under these facts, the Board found there was no delay in settling the difference, as the grievance procedure provided four months’ time for responding between

⁵ Similarly, at least one faculty association (University of the Fraser Valley Faculty Association) has allowed the filing of the instant Application to create delay in the grievance process by requesting that its grievance related to online learning technology be placed into abeyance pending a result from the Board on this Application.

⁶ Likewise, one faculty association named in the Application has not filed any grievance pertaining to distributed learning or faculty workload issues (Capilano University Faculty Association). PSEA submits that there cannot be a delay in settling a difference when no grievance has been filed to initiate discussions of that difference.

stage 1 and stage 2 grievance meetings. The Board also found the difference was not a source of industrial unrest, and that the circumstances giving rise to the dispute are typically handled through grievance process. The Board refused to utilize Section 88 in the circumstances, and referred the matter to the parties' ordinary grievance process.

77. In *Construction Labour Relations Assn. (Re)*, [2011] B.C.L.R.B.D. No. 47, the dispute centered on inconsistencies between the collective agreement and the parties' dispute resolution process. The Board found in that case that the parties already had a process in place through which they were working through this inconsistency issue and therefore refused to make recommendations for settlement pursuant to Section 88.
78. As detailed further below, there is no evidence the institutions have created delay at any step in their grievance processes. Certainly, workload, technology, supports and development time are all matters typically handled through the ordinary grievance process. Indeed, the collective agreements in the sector contain language which may be applicable to these issues.⁷
79. Significantly, as in *Rio Tinto 2*, at least one of the faculty associations included in FPSE's Application has not even filed a grievance on the underlying dispute, yet they have nevertheless alleged there has been a delay in processing settlement of a dispute that has not even been formally raised with the institution. This is not a "delay", it is a failure on the part of the faculty association to raise a matter of concern.
80. Another context in which this Board has considered, and rejected, the application of Section 88 is where a party has requested recommendations for settlement pursuant to Section 88(a) but the Board found there was not sufficient certainty or crystallization of facts to warrant the Board's intervention.
81. This was the case in *Inter Pacific Productions (Re)*, [2010] B.C.L.R.B.D. No. 71, where the dispute centered over the parties' lack of agreement on conforming changes, which the employer said were necessary to implement a Board-appointed mediator's earlier recommendations for the terms of a new collective agreement. The employer was not prepared to ratify the agreement without resolving the issue of the conforming changes. The Board found that even if it provided a declaration or recommendations for settlement, the employer may still not ratify the agreement, which for the Board underscored a lack of finality and lack of sufficient certainty. As a result, the Board refused to issue recommendations pursuant to Section 88, and instead recommended referral to a third party for a binding decision if the parties could not reach agreement on the conforming changes.⁸

⁷ See Appendix B for a summary of collective agreement provisions by institution.

⁸ The Board also refused to act pursuant to Section 88 because the parties' agreement had expired, as Section 88 only gives the Board jurisdiction to act in the context of a valid collective agreement being in place.

82. The Board has never issued a decision under Section 88 wherein it “inquired into a difference and made recommendations for settlement”. This is not surprising. If there is delay in dealing with a dispute arising during the term of the collective agreement, the logical response is a referral to arbitration where the matter can be resolved.
83. Finally, the Board has never applied Section 88 in a manner which violates the bargaining agency established under the *Code*. It has never applied Section 88 in the manner FPSE seeks to apply it in the Application.
84. The reason for this is patently obvious. Section 88 is found in Part 8 of the *Code*, which has as its stated purpose the resolution of disputes under the provisions of a collective agreement. Section 88 provides the Board with the power to either recommend a settlement to the dispute under the provisions of a collective agreement or refer that dispute to an arbitration board. In both cases, the purpose is to settle a dispute arising under the provisions of a collective agreement, which means that the parties involved are the two parties to the collective agreement.
85. FPSE requests a remedy under 88(a) instead of (b) because a request for a remedy under (b) lays bare the fundamental flaw in its Application. There is no “provincial” bargaining structure. Instead, there are 19 post-secondary institutions each with their own bargaining unit representing faculty/instructors, not all of which are affiliated with FPSE. This results in 19 different faculty collective agreements, some of which include clauses negotiated at various different MID rounds and some of which do not. The “dispute” outlined in the Application is not one “dispute” arising under one collective agreement and cannot lawfully be referred to one arbitration board.
86. FPSE knows it cannot achieve its stated objective of establishing a “provincial” “agreement,” “provincial” “consultation” and “processes” relating to remote learning, through 11 individual referrals to arbitration. Instead, it attempts to use Section 88(a) out of context, pretending that it can be invoked outside the confines of a collective agreement relationship to force an employer’s bargaining agent to discuss and make agreements with a stranger to the bargaining relationship. The context of Section 88 is clear. It is a method to assist parties to a collective agreement to resolve their differences if, and only if, unusual circumstances exist such that the grievance procedure is not functioning as it should. It cannot be used as FPSE requests.

The Collective Agreements and Labour Relations Processes Are Functioning Properly: No Evidence of Undue Delay or Industrial Unrest

87. PSEA submits that FPSE grossly mischaracterizes the facts at hand, and the timeline of events, in an attempt to manufacture the appearance of delay or industrial unrest in the hopes of obtaining an order that it be recognized as a provincial bargaining agent. When the facts are properly reviewed in context, it is evident that the existing labour relations processes are functioning as they should and should be permitted to continue.

COVID-19 Timeline: Public Health Framework

88. As a starting point, it is important to understand the evolution of the provincial public health orders as they apply to the post-secondary education sector. The development of these orders can be summarized as follows:
- a. On March 16, 2020, the PHO issued an order which prohibited gatherings in excess of 50 people. This order was specifically directed at “Universities” and “Colleges,” amongst other types of owners, occupiers and operators.
 - b. On May 22, 2020, the PHO issued a new order on events and gatherings that replaced her March 16, 2020 order. This order was not expressly directed at post-secondary institutions, but the addressee line in this order was not exhaustive and could reasonably be read to include post-secondary institutions as owners, occupiers and operators of “an indoor or outdoor place.” The order prohibited events or gatherings in excess of 50 people.
 - c. On July 27, 2020, the PHO issued a new order on events and gatherings that replaced her May 22, 2020 order. This order was directed at persons who organize or attend events at vacation accommodation or other places, and again prohibited events or gatherings in excess of 50 people. Paragraph 5 of this order expressly stated the circumstances in which it did not apply to post-secondary institutions:
 5. For certainty this order does not apply to ... students, teachers or instructors at a school or post-secondary educational institution when engaged in educational activities...
 - d. The PHO issued further subsequent orders on the issue of events and gatherings, each of which replaced the prior order, on the following dates:
 - i. September 18, 2020;
 - ii. October 9, 2020;
 - iii. October 30, 2020;
 - iv. November 10, 2020;
 - v. December 2, 2020;
 - vi. December 4, 2020;
 - vii. December 9, 2020;
 - viii. December 15, 2020;
 - ix. December 24, 2020;
 - x. January 8, 2021; and
 - xi. February 5, 2021.

- e. Each of these orders exempted post-secondary institutions from the application of the order either using the language as set out originally in paragraph 5 of the PHO's July 27, 2020 order, or beginning on the December 2, 2020 by using the following language:

For certainty this order does not apply to ... students, teachers or instructors at a school operating under the *School Act* [RSBC 1996] Ch. 412 or the *Independent School Act* [RSBC 1996] Ch. 216 or a First Nations School or post-secondary educational institution when engaged in educational activities...

- f. The PHO's current event and gathering order has no expiration date.

89. Thus, while the PHO's May 22, 2020 order was arguably still broad enough to capture post-secondary institutions (although it did not expressly name them), it is clear that by July 27, 2020, the PHO's intention was to exclude post-secondary institutions from the event and gathering orders.

90. Meanwhile, on July 31, 2020, BC's post-secondary institutions in collaboration with key education stakeholders, the BC Centre for Disease Control, WorkSafeBC, the Deputy Provincial Health Officer, and the Ministry of Advanced Education, Skills and Training released a publication titled "COVID-19 Go-Forward Guidelines for BC's Post-Secondary Sector." These guidelines were intended to provide guidance to post-secondary institutions and their return to in-person instruction, stating the following:

"Post-secondary institutions have remained open and available for learners with remote adaptive learning. The goal of these protocols is to support the gradual increase of in-person teaching, learning, research, administrative and support services at post-secondary institutions while reducing the risk of COVID-19 transmission."

91. These guidelines were updated October 1, 2020, December 18, 2020 and February 2021, but at all times supported the gradual resumption of in-person learning consistent with the orders, notices and guidance issued by BC public health officials. These updated guidelines reflect the lack of a single provincial-wide framework for the delivery of educational programming for post-secondary institutions, and rather reflect the autonomous role of the institutions in this process:

Institutions are responsible for operationalizing these protocols, and ensuring that their campus safety plans align with the evolving COVID-19 public health information and direction.

92. As part of the Go-Forward Guidelines, all post-secondary institutes were directed to develop their own COVID-19 safety plans that outline the policies, guidelines and procedures they have put in place to reduce the risk of COVID-19 transmission. Each institution's individual

COVID-19 safety plan is accessible publicly on the BC government's post-secondary webpage.

93. The BC government's post-secondary webpage also describes the variety of formats being used within the sector to deliver educational programming for the fall 2020:

For the fall 2020 academic term, education and skills training will be delivered using a variety of formats, while protecting the health and safety of students, faculty and staff.

- Larger classes will be offered primarily through remote delivery
- Where health and safety permits, in-person instruction will be delivered on-campus to support essential experiential learning, graduate education and work-integrated learning
- Some courses will be delivered using a blend of on-campus and online instruction with theory delivered remotely, and some hands-on learning components delivered on-campus

Students are encouraged to visit their post-secondary institution's website for the latest course delivery information.

94. What these COVID-19 interventions and orders demonstrate is that COVID-19 was a disruption to the delivery of educational programming in the post-secondary sector at the end of the spring 2020 semester, but it was quickly identified by BC public health and the Ministry of Advanced Education that, as a sector, it did not require special protections (unlike the K-12 education sector which was deemed critical for the economy, and required extraordinary interventions).
95. Soon after the onset of the pandemic, public health officials and sectoral stakeholders provided post-secondary institutions the autonomy to resume in-person instruction, and deliver educational programming as they saw fit, in compliance with public health orders and guidance. The governmental response has not been to impose a one-size-fits-all framework on the sector, but rather to promulgate guidelines for each institution to "operationalize" within their own existing processes. This necessarily includes consideration of each individual institution's collective bargaining regime.

Post-Secondary Institutions' Response to COVID-19

96. As noted above and in the Application, the initial response by post-secondary institutions in March 2020 to the PHO's events and gatherings order was an immediate increase in the use of remote learning arrangements. However, distributed learning is not a new delivery format in the post-secondary sector. Historically, and well before the onset of the COVID-19 pandemic, there has been collective agreement language across the sector dealing with

issues related to distributed learning, such as workload, technology, supports, and development time.⁹

97. Institutions and their faculty associations commenced active discussions at the outset of the pandemic in March 2020 concerning how their specific collective agreement provisions may apply to their specific circumstances. Since the start, there has been a significant degree of consultation and discussion happening between institutions and their faculty associations.¹⁰
98. As a result, several institutions together with their faculty associations have determined that their existing collective agreement language is unworkable or inapplicable in the context of the limitations inherent in the COVID-19 pandemic. With the support and approval of PSEA as bargaining agent, these institutions and faculty associations have worked cooperatively towards negotiating and many have entered into variance agreements to address these COVID-19 impacted issues, including course preparation, faculty performance appraisals, regularization, staff redeployment, and retirement incentives.¹¹
99. What these variances show is that the labour relations processes, and the purposes of the *Code*, are functioning properly. These agreements are evidence that the parties have demonstrated their ability to settle disputes without intervention of the Board, and in accordance with the following aspects of Section 2 of the *Code*:
- (d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity,
 - (e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes
100. Not surprisingly, the variance mechanism did not forestall all disputes between institutions and their faculty associations as the parties pushed forward during the uncertainties of the early pandemic. However, it is clear the parties continued to work together collaboratively to address additional issues as they arose, and to refer unresolved issues to the grievance process.
101. The reality is that the changes required in March 2020 to adapt to the PHO's orders in order to complete programs and courses were not necessarily substantial. Faculty were not being asked to revamp entire programs, or to create new courses. Faculty were taking pre-existing courses and modifying the delivery format in order to get through to the end of the term (and in many instances the normal "term" ended early, as soon as students had completed the bare minimum educational requirements for the course). Indeed, some faculty prior to

⁹ See Appendix B for a summary of collective agreement provisions by institution.

¹⁰ See Appendix C (summary of initial transition timeline in March/April 2020, by institution).

¹¹ See Appendix D for a summary of institution-specific variance discussions.

the commencement of the pandemic were already utilizing some form of remote learning delivery format for their courses. The types of remote delivery faculty elected to use to adapt to the PHO orders in March varied widely, from uploading full video recordings of each lecture online to posting a single set of notes online without accompanying lecture material. Regardless of the changes required for a particular course or program, faculty had non-instructional time available and were provided with significant supports to adapt programs and courses to alternative delivery formats.

102. In those instances that remote delivery of courses was made mandatory as a result of public health orders in March 2020, by and large faculty were not required to work from home to do so. While faculty were allowed to work from home beginning in March 2020 and continuing into Fall 2020, most were welcome to work on campus for these purposes as well.¹² Nevertheless, institutions have also provided faculty who worked from home with various types of support, including loaning equipment (laptops, monitors, webcams, headsets/microphones), providing or reimbursing supplies (pens, papers, printer cartridges), and providing ergonomic assessments and equipment (sit/stand desks, ergonomic chairs).
103. In response to FPSE's allegations that faculty have not been provided with sufficient pedagogical support in the transition to online learning, PSEA submits that faculty have a high degree of professional autonomy in developing their courses and the delivery of courses. They also receive a significant amount of non-instructional time built in to their schedule between sessions which is intended to allow faculty to stay current in their field, their teaching practices, and their pedagogy.¹³ Generally speaking, these institutions do not require faculty to conduct research outside of teaching, and thus it is generally expected that their *paid* non-instructional time will be used for purposes of benefiting their instructional duties.
104. Nevertheless, and contrary to the allegations raised in the Application, faculty were provided with significant supports in technology, pedagogy, workload and mental health throughout the onset and continuation of the pandemic. Institutions are well aware of the magnitude of challenges facing educators, and indeed all British Columbians, during this pandemic, and have at all times approached their response to faculty from the collaborative, empathetic perspective. The following is a summary of the various supports provided, with institution-specific summaries provided in the associated appendices:
- a. **Technology and pedagogical supports:** provision of e-learning workshops and drop-in sessions to provide support for converting to online instruction; individual and group consultations with instructional designers; virtual supports; instructional videos; dedicated training on particular online platforms (Zoom, Brightspace, Moodle,

¹² See Appendix E for a summary of work-from-home directives and supports, by institution

¹³ See Appendix F for a summary of faculty non-instructional time entitlements, by institution.

Blackboard, MS Teams, PeerScholar; WeVu; Padlet, Camtasia); and hiring of additional educational technologists.¹⁴

- b. **Mental health supports:** access to EFAP benefits, including counseling supports (in addition to psychological/counseling services covered by extended benefits plans); distribution of health and wellness newsletters including focus on mental health issues; publication of webinars focused on mental health support and strategies; access to mental health workshops; creation of health and wellness-focused channels to promote connectivity, communication, and access to mental health supports.¹⁵
- c. **Individual Workload Adjustments:** suspension of courses in March 2020 to allow for online transition; delayed start to winter term; reduction in class size and splitting of classes; individual changes to workloads made on a case-by-case basis; allowance of faculty discretion on final exams and evaluations to allow for maximal preparation time; provision of additional preparation periods; postponement of practice placements; reallocation of instructional hours; and lab courses adapted to shorter instructional time.¹⁶

105. Contrary to the bald allegations made in the Application, there is no evidence to support FPSE's claims of mental health crisis among faculty. The institutions are not seeing any unusual level of absences, leave requests, claims or benefits usage which would support anything close to a "crisis." Indeed, many institutions are seeing a reduction in EFAP and STD leave usage, and some a substantial reduction in the number of WorkSafeBC claims, during the pandemic.¹⁷

106. Likewise, there is no evidence to support the alleged concerns of faculty with respect to job security. The vast majority of institutions have not laid off any faculty as a result of the pandemic. The few who have issued layoff notices have been able to rescind some of those notices, and recall others from layoff.¹⁸ Institutions have gone to extreme lengths to avoid issuing layoff notices whenever possible.

107. In light of the provision of the foregoing supports, discussions between the institutions and faculty associations have largely centred upon what (and whether) additional paid time for faculty would be reasonable for purposes of modifying existing courses for online delivery. By its very nature, this must be a discussion that is dependent upon the institution's collective agreement language and any institution-specific past practices with respect to distributed learning and workload support or adjustments. It is also a very granular discussion that varies depending upon the department, the type of course at issue, and potentially the specific faculty member at issue in order to identify the amount of

¹⁴ See Appendix G for a summary of technological and pedagogical supports, by institution.

¹⁵ See Appendix H for summary of mental health supports provided by institution.

¹⁶ See Appendix I for a summary of workload adjustments, by institution.

¹⁷ See Appendix J for a summary of benefits usage during the pandemic, by institution.

¹⁸ See Appendix K for a summary of layoff action by institution.

modification or work required to adapt the course to an online model. By their very nature, these are not disputes that lend themselves to a sectoral-wide approach. Indeed, contrary to FPSE's allegation, PSEA has not, for this very reason, mandated a sector-wide approach to handling claims relating to workload. Collective agreement language and past practice varies from institution to institution. Institutions have been supported in their efforts to discuss variances to their collective agreements by PSEA where appropriate.

108. Not all disputes raised by faculty associations were able to be resolved by variance or informal discussion. In those instances, the faculty association engaged the grievance process in their collective agreement. This is precisely the appropriate course of action for a party to take when a dispute cannot be resolved informally. These grievances are working through their individual grievance processes on the timelines set by the applicable collective agreements. Some have already been resolved, and others withdrawn. Several have been referred to arbitration, many of which are already assigned to an arbitrator with hearing dates. The remainder are working their way through the steps of the parties' grievance procedures, with many at Step 2 and 3 of the process.¹⁹ There is no evidence, however, that any of these grievances have been deliberately delayed, barred or otherwise blocked through the grievance process by the institution or PSEA.
109. Simply put, there is no evidence of delay or industrial unrest. Each institution and faculty association have been working through the issues applicable to their particular facts, circumstances and collective agreement language, on the timelines set out in their collective agreements. Institutions have provided immense support to their faculty in this transition to distributed learning and hybrid delivery models, and benefit usage metrics demonstrate that faculty are responding well to these changes and supports. There is no basis for the Board to apply or intervene under Section 88.

Remedy Requested Is Inappropriate

110. As discussed earlier, the remedies requested in the Application make abundantly clear that FPSE is seeking to carve out a role for itself as a provincial bargaining agent, and to force province-wide bargaining on workload and supports. In effect, FPSE is seeking to create a mandatory, two-tiered bargaining structure which is not required by statute, and which FPSE has been otherwise unable to achieve through the existing bargaining structure in the post-secondary sector. This is wholly improper, and PSEA submits would amount to a breach of the *Code*.
111. It is well-established in this Board's jurisprudence that absent a voluntary agreement to participate in multi-party or sectoral bargaining (or a Board-imposed sectoral bargaining structure pursuant to Section 41), an employer cannot be compelled to bargain on an industry-wide basis. In the post-secondary sector, only those institutions participating in the MID in a particular round have agreed to a multi-party bargaining structure *for that round*.

¹⁹ See Appendix L for a summary of the status of grievances filed, by institution.

All other institutions – including five of the institutions named in the Application – have eschewed multi-party bargaining and instead elected to bargain on the basis of their faculty association’s certification. To now force these institutions into a multi-party bargaining format which is contrary to their certifications and to their agreements on bargaining structure, violates the core principles of the *Code* as set out in *Northwood, supra*, and its progeny. Further, we note that not even all faculty associations who opted in to the last MID round are included in the Application.

112. The remedies sought by the Application would also allow FPSE and faculty associations to bypass the language of the collective agreements that already have provisions for workload and support, and to essentially avoid the agreement the bargaining parties have already reached on these issues at the bargaining table. This is incongruent with labour relations in British Columbia and the purposes of the *Code*.
113. Finally, to the extent the Application seeks collective discussion on safety protocol or educational policy, the granting of such a remedy would be contrary to existing statutory and regulatory structures. Further, PSEA has no authority as bargaining agent to “bargain” the creation of policy on behalf of the institutions in the sector and institutions have no obligation to discuss or agree on policy with FPSE or faculty associations. These are discussions and decisions to be made by the institutions’ governance bodies, BC governmental public health officials, and by the Ministry of Advanced Education. Not only should these existing structures not be disrupted, but FPSE also has no place in these discussions.

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Conclusion

114. For the reasons outlined about, the Section 88 Application, and the remedies requested therein, is inappropriate and must be denied.

115. PSEA submits that the Board must allow the parties to work through the collective agreement processes that have already commenced.

Yours very truly,
Harris & Company LLP

Per:



Lindsie M. Thomson & Jessica S. Fairbairn

LMT/jc

Enclosure

cc

002425.088/3685555.9

Appendix A

The following post-secondary institutions named in the Application did not participate in the last MID:

- Capilano University
- Douglas College
- Nicola Valley Institute of Technology
- University of the Fraser Valley
- Vancouver Community College

Appendix B

All eleven collective agreements contain provisions which address issues core to the use of distributed learning, including workload, technology, supports, and development time. While PSEA and institutions may differ with faculty associations concerning whether and the extent to which this language applies to circumstances arising in the past 11 months that is a matter to be resolved through the proper collective agreement processes. Listed here are the significant provisions of the collective agreements for those post-secondary institutions named in the Application.

Camosun College

Issue	Collective Agreement Language
Technological Change	Article 29 – Technological Change
Distributed Learning	Article 7.01(o) – Workload, determined in part based upon “education technology, distributed learning and on-line education duties”
Workload	Article 7 – Working Conditions, including: 7.01 – Workload 7.02 – Weekly contact hours 7.03 – Non-teaching Employees and Non-Teaching Duties 7.04 – Substitute Instructors 7.05 – Continuing Education 7.06 – Preparation Time for New Employees
Non-Instructional Time / Development Time	Article 7.02 – Weekly Contact Hours (including (b) Non-Teaching Duty Days) Article 10 – Faculty Development Program, including: 10.01 – Scheduled Development Time for Faculty 10.02 – Professional Development Fund

	<p>10.03 – Faculty Exchanges</p> <p>10.04 – Professional Fees</p> <p>Letter of Agreement 2 re: Joint Committee on Scheduled Development</p>
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Capilano University

Issue	Collective Agreement Language
Technological Change	Article 14 – Technological Change
Distributed Learning	<p>Article 6.2.2.6 – Course and Program Development</p> <p>Letter of Intent – Linkages to the 2019-2022 Common Agreement and 2019 FPSE Template Table, including:</p> <p>Para. 7 – Article 6.6: Educational Technology / Distributed Learning</p>
Workload	<p>Article 6 – Employees: Classification, Duties, Responsibilities, Workload, Rights, Professional Development, including:</p> <p>6.2 – Instructors</p> <p>6.2.2 – Workload</p> <p>6.2.2.2 – Scheduled Hours</p> <p>6.2.2.3 – Scheduled Student Contact Hours</p> <p>6.2.2.6 – Course and Program Preparation</p> <p>6.8 – Assignment of Duties</p> <p>6.10 – Equivalent Workload Committee</p>
Non-Instructional / Development Time	Article 6.9 – Professional Development

Coast Mountain College:

Issue	Collective Agreement Language
Technological Change	Article 1.8 – Technological Change
Distributed Learning	Article 1.7 – Packaged and Pre-Programmed Systems Article 13 – Workload, including that workloads are determined in part by “distance education course[s]” and “teleconferencing course[s]”
Workload	Article 13 – Workload, including 13.1 – Duties of Employees 13.2 – Annual Workloads for Instructional Employees 13.4 – Workload for Non-Instructional Employees 13.5 – Low Enrollment Courses 13.6 – Other Work Conditions
Non-Instructional / Development Time	Article 7.2 – Short Term Professional Development Activities

College of New Caledonia:

Issue	Collective Agreement Language
Technological Change	Article 1.10.17, including definition of technological change Article 9 – Technological Change; including: 9.1 Technological Change 9.2 Introduction and Evaluation of Self Instructional or Pre-packaged Courses 9.3 Introduction of Courses Transmitted Live

	9.4 Protection of Instructional Methodology & Materials
Distributed Learning	<p>Article 10 – Workload, including that workload is determined in part by teaching self-instructional courses;</p> <p>Letter of Agreement Re: RE: ON-LINE DISTRIBUTED LEARNING CREDIT COURSE OFFERINGS</p> <p><i>Includes:</i></p> <ol style="list-style-type: none"> 1. Education Council 2. Curriculum Development 3. Court Instruction 4. Class Size 5. Workload Classification 6. Technical Support and Training 7. Copyright
Workload	<p>Article 10: Faculty Workload, including</p> <ol style="list-style-type: none"> 10.1 Faculty Classification 10.2 Workload for Type 1(a) Faculty Employees 10.3 Workload for Type 1(b) Faculty Employees 10.4 Workload for Type 1(c) Faculty Employees 10.5 Workload for Type 1(d) Faculty Employees 10.6 Workload for Type 2 Faculty Employees 10.10 General Workload Assignments 10.19 Workload Assignment

Non-Instructional /Development Time	<p>Article 10 – Workload, including language re preparation time and professional development time, and:</p> <p>10.11 – Non-Teaching Functions</p> <p>10.12 – Scholarly /Professional Activity</p> <p>10.17 – Community Affairs</p> <p>10.18 – Professional Development</p> <p>Article 13 – Professional Development Funding</p>
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College of the Rockies:

Issue	Collective Agreement Language
Technological Change	Article 13.2 – Technological Change
Distributed Learning	<p>Article 5.1 – Duties and Responsibilities of an Employee (including that work performed by employees may include all modes of instructional assignments)</p> <p>Article 5.5 – Instructional Modes and Activities (including face-to-face, online, blended and hybrid modes)</p> <p>Letter of Understanding re: Distributed Learning</p> <p>Letter of Agreement re: Service Improvement Fund (including supporting innovation of instruction through development, adoption and/or use of technology)</p>
Workload	<p>Article 5 – Working Conditions, including</p> <p>5.1 – Duties and Responsibilities of an Employee</p> <p>5.2 – Duty time</p> <p>5.2.3 – Non-Instructional Duty Time</p> <p>5.3- Duty Schedule</p>

	<p>5.5.2 – Contact hours per Duty Year</p> <p>5.5.3 – Contact Hours per Duty Week</p> <p>5.5.5 – Students Per Instructor</p> <p>Letter of Understanding re: University Studies and Career Technical Preparation Hours Per Week</p>
Non-Instructional /Development Time	<p>Article 5.4 – Professional Development</p> <p>Article 5.5.4 – Preparation Hours Per Week for University Studies and/or Career Technology Courses</p>

Douglas College:

Issue	Collective Agreement Language
Technological Change	Article 10.05 Technological Change
Distributed Learning	Letter of Understanding #4 – Distributed Learning
Workload	<p>Article 6 – Creation and Assignment of Regular Positions and Available Work, including:</p> <p>6.03 – Establishing Workload</p> <p>6.04 – Increasing Established Workload</p> <p>6.05 – Determining Workload Assignments</p> <p>6.09 – Workload Reduction</p> <p>Article 8 – Working Conditions, including:</p> <p>8.01 – Normal Duties</p>

	<p>8.02 – Contact Hours</p> <p>8.03 – Workday</p> <p>8.06 – Instructional Conditions</p> <p>8.07 – Student Interview Hours</p> <p>8.12 – Assignment of Other Duties</p> <p>17.02 c. – Vacation – Carryover of Vacation Days</p>
<p>Non-Instructional /Development Time</p>	<p>Article 8 – Working Conditions, including:</p> <p>8.01 – Normal Duties</p> <p>8.02 – Contact Hours</p> <p>8.07 – Student Interview Hours</p> <p>8.12 – Assignment of Other Duties</p> <p>Article 9 – Professional Development, including:</p> <p>9.01 – College-Wide Professional Development</p> <p>9.02 – Faculty Professional Development Funds</p> <p>9.03 – Education Leave</p> <p>Memorandum of Understanding, Appendix A, Article 9 – Professional Development, including:</p> <p>9.01 – College-Wide Professional Development</p> <p>9.02 – Faculty Professional Development Funds</p> <p>9.03 – Education Leave</p>

Nicola Valley Institute of Technology:

Issue	Collective Agreement Language
Technological Change	Article 12 – Technological Change
Distributed Learning	Article 6.6 – Education Technology / Distributed Learning
Workload	Article 22 – Workload / Hours of Work, including: 22.3 – Flexible Work Schedule 22.4 – Faculty Presence on Campus 22.5 – Overtime 22.6 – Overtime Rates 22.7 – Instructional Faculty 22.7.8 – Overload 22.8 – Workload Modification 22.9 – Faculty Duties 22.10 – Allocation of Work – Right of First Refusal
Non-Instructional /Development Time	Article 22.8 – Workload Modification Article 11 – Professional Development, including: 11.3 – Professional Development Leave 11.4 – Joint Professional Development Committee 11.5 – Faculty Professional Development Fund

North Island College:

Issue	Collective Agreement Language
Technological Change	Article 15.4 – Technological Change
Workload	Article 9 – Workload, including: 9.1 – Hours of Work 9.1 – Assignment and Scheduling of Duties 9.3 – Determination of Workload 9.4 – Instructional Year 9.5 – Calculation of Workload: Instructional Units 9.6 – Student Consultation Hours 9.7 – Course Preparation in Academic and Career Programs 9.8 – Other Duties 9.9 – Number of Courses and Sections
Non-Instructional /Development Time	Article 9 – Workload, including: 9.7 – Course Preparation in Academic and Career Programs 9.8 – Other Duties 9.14 – Curriculum Development 9.21 – Establishment of Workload for New Programs/Courses Article 11 – Professional Development, including: 11.3 – Time Allocated for Professional Development 11.4 – Professional Development Committee 11.5 – Classification of Professional Development Activities

	11.6 – In-Service Professional Development
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Selkirk College:

Issue	Collective Agreement Language
Technological Change	Article 12 – Technological Change
Distributed Learning	Article 8.3.8 – Educational Technology: On-Line Courses Letter of Understanding 7: Remuneration for Distance Education Courses
Workload	Article 8 – Conditions of Employment, including: 8.1 – General 8.2 – Faculty Workload 8.3 – Instructional Faculty Assignments 8.4 – Non-Instructional Assignments 8.7 – Rights to Newly Available Work 8.11 – Voluntary Workload Reduction Schedule H – Workload Calculations Letter of Understanding 8: Joint Committee on Workload Review
Non-Instructional /Development Time	Article 8.2 – Faculty Workload, including “other specified non-teaching duties”) Article 8.10 – Professional Development

University of the Fraser Valley:

Issue	Collective Agreement Language
Technological Change	Article 33: Technological Change
Distributed Learning	Article 18.2 – Teaching Faculty Duties (including teaching of online and hybrid courses)
Workload	Article 18 – Working Conditions, including: 18.2 – Teaching Faculty Duties 18.3 – Assignment of Teaching Faculty Workload 18.4 – Teaching Assignments for Faculty in Semester-based programs 18.10 – Workload Modification 18.11 – Overloads
Non-Instructional /Development Time	Article 18.3 – Assignment of Teaching Faculty Workload, including 20 annual days of professional development time Article 24 – Professional Development and Leaves

Vancouver Community College:

Issue	Collective Agreement Language
Technological Change	Article 14 – Technological Change
Distributed Learning	Article 6 – Assigned Duty, Working Conditions, and Professional Development, including: 6.7 – Distributed Learning Letter of Understanding – Service Innovation and Enhancement Fund, including stated support to develop new models of program delivery, including online, distributed and/or blended models

Workload	Article 6 – Assigned Duty, Working Conditions, and Professional Development, including: 6.2 – Determination of Department Workload Profile 6.3 – Hours of Assigned Duty 6.4 – Scheduling for Faculty Members 6.5 – Class Size
Non-Instructional /Development Time	Article 6.1 – Assigned Duty, which includes an acknowledgement that a faculty member’s professional responsibilities include more than assigned duty. Article 6.6 – Professional Development

Appendix C

The following is a summary by institution of initial COVID-19 transition timeline and discussions with their faculty associations:

Camosun College:

At the start of the pandemic, the College took significant steps to maintain communication with faculty. The College sent regular newsletters (“CamNews”) and communications to faculty and staff to keep them apprised of developments regarding COVID-19, PHO updates and consequential College decisions made in order to keep faculty, staff and students safe. These communications included information regarding the transition from face-to-face instruction to alternative instruction and assessment as part of measures to support social distancing and the many supports available to faculty. Where possible, the CCFA were consulted in advance of CamNews information being provided to employees which had a faculty impact. Further, a special COVID-19 website was created to capture key information for the College community in one place including COVID-19 FAQs, supports to employees and students, updates from Camosun’s COVID-19 Response Coordination Team, and a separate email account was created where employees could direct general questions regarding COVID-19. Three virtual gatherings were scheduled with the College Executive Team in attendance (June, September and December 2020) which employees were encouraged to attend and ask questions. These gatherings centred on key topics of interest to employees such as layoffs/job security, College financial situation, classes coming on campus, online student learning, supports available for employees working remotely, etc.

The College also engaged the Camosun College Faculty Association (“CCFA”) in pandemic-related discussion at the earliest steps. From March 17, 2020-June 24, 2020, weekly meetings were held between the Camosun COVID Response Coordination Team (which includes the College President and representatives of the education and human resources departments) and representatives of all unions and students, including the CCFA. In these meetings, the CCFA raised its concerns about faculty-related transition to alternative instruction (including workload and supports). In an effort to discuss and work to resolve CCFA’s concerns, additional meetings were scheduled between the Vice President, Education, Executive Director, Human Resources, and the CCFA. The meetings between the Camosun COVID Response Coordination Team and the unions resumed on a bi-weekly basis on September 2, 2020 and continue to be held.

The CCFA and faculty members were also consulted with respect to Camosun’s SafeStart Program which aimed to provide information to employees and students in order to support the safe delivery of education to students.

The School of Business and CSEE held weekly town hall meetings through Blackboard Collaborate in the Winter and Spring 2020 terms, and monthly town hall meetings in the Fall 2020 terms, in order to provide additional support and touchpoints for staff and faculty. These town hall

meetings were attending by approximately 80-100 employees at each online town hall meeting, out of approximately 160 employees.

Capilano University:

As the COVID-19 pandemic unfolded in March 2020 and throughout the Spring 2020 term, Capilano University held near-daily communication with the Capilano Faculty Association (“CFA”), in the form of email discussions and telephone meetings. These meetings and discussions covered remote learning transition-related items, including workload and workload supports for faculty. The fact that these issues were under active discussion with the University is reflected in an October 2020 memo from the CFA to its faculty members. During the Spring 2020 term, Joint Labour-Management meetings with the CFA continued to be held on a monthly basis as well.

Coast Mountain College:

Coast Mountain College was in communication with its faculty and staff about the potential impacts of the COVID-19 pandemic as early as February 2020. Multiple COVID-19 update emails were sent to faculty and staff during March and April 2020, covering issues including campus closures, transition to distributed learning, and work from home options. In fall 2020, the College also held several town hall meetings to address various issues facing faculty due to the pandemic.

The College was also in constant communication with its faculty association (the Academic Workers’ Union (“AWU”)) through on-going Joint Union Management meetings (these took place April 8, May 4, May 11, May 25, June 8, June 22, July 20, September 21, October 21, November 18, November 27, December 2, and December 16). These meetings included discussion of various distributed learning issues, such as course planning, work-from-home and work-on-campus arrangements, course delivery, technological supports.

College of New Caledonia:

The College of New Caledonia maintained communication with staff and faculty early on in the pandemic through constant updates on the College website. These included health and safety updates, communication on mental health supports including staff EFAP access, transition to distributed learned models (including online and by telephone), work-from-home arrangements and resumption on in-person attendance on campus.

The College was also in frequent communication with the Faculty Association of the College of New Caledonia (“FACNC”) on issues of remote work, and workload. These discussions took place largely in March and April 2020, but continued into Fall 2020.

The parties were also in bargaining during this time – and met on April 21, May 20 & 29, June 2, 17, & 18, 2020. The bargaining was conducted via Zoom due to the pandemic declaration and

the direction from government with respect to avoiding non-essential travel, avoid gathering indoors, social distancing and hand hygiene. While some general discussion around COVID-19 occurred within the context of the impact of the limitations due to the pandemic, there were no submissions or requests relative to any impact on the collective agreement rights of the FACNC members that required discussion with a view to amendments. This is particularly true with respect to Workload related matters.

College of the Rockies:

The College of the Rockies was in near-daily communication with faculty at the start of the pandemic through the end of the Spring 2020 term, with respect to various distributed learning issues, including contingency planning, work-from-home supports, suspension of in-person learning and mental health supports. Various deans also worked closely with faculty during this time to transition and complete programs in process to online formats, and to plan for delivery methods for Fall 2020 including course adaptations, technical support and contingency planning.

Substantial cooperation and communication took place during this time between the College and the College of the Rockies Faculty Association (the "CORFA"). The College met with CORFA (and CUPE) presidents regularly, an increase and decrease in the frequency of their regular meetings with the agreement of the unions. At the immediate onset of the pandemic, the parties were in bargaining, but the regular meetings of union presidents and the CORFA labour management meetings reconvened starting in May 2020. During these meetings the parties discussed CORFA's concerns, issues, and feedback on the transition to distributed learning. These were communicated to the College President, and were incorporated into subsequent College decisions and actions.

Douglas College

The College convened a Pandemic Preparedness Response Team on January 27, 2020. This Team was informal at first and met weekly until March 2020, when the Team began meeting daily. This Team evolved into an Emergency Operations Centre. The College maintained frequent communication with faculty throughout the pandemic through the end of the Spring 2020 term and with further updates into the summer and fall. The College provided information to faculty early on regarding COVID-19 symptoms and protection tips, resources on health and wellness, including referrals to the EFAP, conducted surveys with faculty regarding readiness to transition online, provided workshop and training offerings throughout the transition, and information regarding obtaining remote work equipment. The College provided information through a variety of avenues, in order to reach as many faculty as possible. These included information and resources pages on the College intranet "DC Connect", via directed emails from the College President, Human Resources, Health & Safety, Facilities, CEIT and other service departments and through the Deans' offices directly to faculty.

The College was also in regular contact with representatives from the Douglas College Faculty Association ("DCFA") and maintained regular meetings with the DCFA where COVID-19 issues

and concerns with the transition could be raised. These included official meetings of the Labour Management Relations Committee (LMRC) where the DCFA had the opportunity to meet directly with the College President, Vice President Academic, Associate Vice- President, Human Resources, HR Manager, Advisory Services and Labour Relations Advisor. Meetings are scheduled monthly and occurred regularly throughout 2020 to current. They provide an opportunity to share information and jointly discuss and problem solve issues of concern. For example, the DCFA expressed concern with the process for course feedback. The College listened to the concerns and implemented revisions to the survey.

The DCFA President and VP Stewardship also met regularly with the AVP, Human Resources and the Manager. During the early days of the pandemic there were at least 4 meetings and relations were noted to be collegial and constructive. After a summer break, regular meetings resumed with both parties raising and responding to issues. The College provides further opportunity for communication and problem solving through regularly scheduled, private meetings between the College President and the DCFA President.

Nicola Valley Institute of Technology:

Nicola Valley Institute of Technology communicated with faculty on a near-daily (or multiple times per day) by email to provide pandemic-related updates, including issues of the transition to distributed learning. These communications covered issues of working from home options, technological supports, health and wellness supports (including mental health), and resumption of some in-person learning options. The Institute also convened various open-format meetings attended by various numbers of employees (approximately 20 per session, out of 78 total employees) to address pandemic-related issues, including faculty views on adopting a hybrid programming model (online and face-to-face learning), and technological supports. The Institute was also engaged in discussions with the members of the NVIT Employee Association (“NVITEA”) through these open-format meetings. Since March 2020, the Institute has met with the NVITEA 24 times; the association had opportunity during those meetings to raise COVID-19 related issues or concerns, but never did so.

North Island College:

North Island College began COVID-19-related contingency planning with the North Island College Faculty Association (“NICFA”) beginning in early March 2020. Faculty were directed to start planning for alternate delivery methods to ensure learning continuity through the end of the term, and were provided with support to do so through the Colleges’ Centre for Teaching and Learning Innovation. The College communicated with faculty on these transition issues through email, and website updates.

The College also engaged in many discussions through email, phone calls and virtual meetings with NICFA to plan for the transition to distributed learning models, and to discuss planning for the Spring 2020 term. Meetings with NICFA were scheduled for every two weeks starting March 31, 202, with ad hoc meetings added as necessary. These discussions included issues of

technological support, needs of faculty working from home, staffing decisions for Fall 2020, workload reductions, and planning for the 2020/2021 academic year.

Selkirk College

Beginning at the start of the pandemic, Selkirk College maintained frequent email communication with faculty and staff, including on issues of program delivery, employee mental health supports, the transition to distributed learning models, and technological supports. This communication has continued through the Fall 2020 term and beyond.

The College also commenced bi-weekly open forum meetings with the Selkirk College Faculty Association (“SCFA”), the College President and the College HR department beginning April 6, 2020. This open forum style meeting was created to share information and communication regarding the challenges facing employees due to COVID-19 on a more frequent basis than Joint Labour Management meetings. This provided the College the ability to hear about challenges and concerns from the SCFA sooner, and to act or shift as appropriate in response. These meetings also provided the SCFA president access to all College executives as required, and an opportunity to ask the College president direct questions on areas of the SCFA’s concerns.

The College also held regular meetings of the Education Council (monthly, with additional meetings as necessary to support COVID issues), Deans & Chairs Committee (monthly), and Education Division (as needed to check-in, plan, and communicate on COVID issues). These meetings all have SCFA members in attendance. Meetings were also regularly held with the Education Division Leadership Committee and School Chairs (which include SCFA members to discuss and plan related to COVID issues).

University of the Fraser Valley:

The University of the Fraser Valley communicated with faculty via email on a frequent basis at the commencement of the pandemic to provide information on various COVID-19 related issues, including the University’s phased approach to working remotely, and on mental health supports available to employees.

Beginning March 23, 2020, the University initiated daily labour-management check-ins with the University of the Fraser Valley Faculty Association (“UFVFA”) which continued until May 23, 2020. These meetings then continued on a weekly basis thereafter, and have been an avenue for the UFVFA to raise transition-related concerns and challenges. Formal Labour-Management meetings also continued through the Spring 2020 and Fall 2020 terms, which allowed for discussion on items such as remote workplans, program delivery, and safety protocols.

Vancouver Community College:

Vancouver Community College sent numerous email updates to faculty at the start of the pandemic to provide support and communication on issues related to the transition to

distributed learning, including remote working arrangements, technological supports. The College also held numerous consultation meetings on issues of COVID-19 transition planning with the Vancouver Community College Faculty Association (“VCCFA”) during this time (including on April 27, May 8, May 11, May 25, June 8, June 17, Sept. 14, October 5, and November 18). These were in addition to meetings to discuss collective agreement variances.

Appendix D

The following is a summary of the post-secondary institutions named in the Application who have had discussions with their faculty associations with respect to collective agreement variances, and the outcome of those discussions (noting that faculty associations not associated with the Application also entered into variances with their institutions):

Camosun College: The idea of a potential variance with respect to the CCFA collective agreement originated from the Executive Director, Human Resources, in discussions with the CCFA. CCFA presented a number of variance proposals to the College which went significantly beyond what was originally discussed with the Executive Director. The parties engaged in these variance discussions in Spring 2020 and Fall 2020. Ultimately, no variance was agreed to.

Capilano University: The CFA presented a variance to the University and the parties engaged in variance discussions. Ultimately, the parties determined no variance was necessary, and thus no variance was agreed to.

Coast Mountain College: Variance discussions were held between the parties throughout the spring, summer and fall of 2020, but ultimately no variance was agreed to.

College of New Caledonia: Variance discussions were held between the parties in Spring and Fall 2020, but ultimately no variance was agreed to.

College of the Rockies: Variance discussions regarding professional development were held between the parties in Fall 2020, but ultimately no variance was agreed to. There was also a variance discussion around regularization in spring/summer but the parties decided it was not applicable given the collective agreement language for affected employees.

Douglas College: Two variances were agreed to between the College and the DCFA with respect to Article 5.03, which requires that vacant faculty positions be posted for a minimum of two weeks. Both variances arose from emergency hiring needs that were COVID-19 related. There has been a long-standing practice between the College and DCFA to discuss exceptions to the CA language (variances) as needed to support service delivery to students and problem solve issues; and it was rare for the DCFA to deny a variance request. This practice continued through the pandemic and variances were recorded at the monthly LMRC (labour/management) meetings. Through 2020 a number of exceptions to the CA language were discussed and granted under Article 5.0, Postings; Article 14.03, Cross-College Meeting Times, Article 5, Selection Committees.

Additional discussions were held between the parties in June 2020, regarding COVID specific concerns. The College expressed interest in continuing conversations and attempts to resolve, however, the DCFA communicated a preference to proceed to grievance arbitration and ceased further variance discussions.

North Island College: A variance was agreed to between the College and the NICFA with respect to the application of Article 9.07 (Course Preparation in Academic and Career Programs). The variance was signed in July 2020, and is currently set to expire March 31, 2021.

University of the Fraser Valley: Three variances were agreed to between the University and UFVFA, with respect to: redeployment of staff and faculty, performance evaluations, and retirement incentives.

Vancouver Community College: A variance was negotiated between the College and VCCFA, with respect to performance evaluations, appraisals, and regularization (*i.e.*, the process by which a non-regular employee's appointment status is converted to a regular appointment with continuing employment). The variance was agreed to very early on in the pandemic, in April 2020, with a general expiry date of August 31, 2020. Further variance discussions were held with respect to Fall 2020 term, but ultimately no further variances were agreed to. A Letter of Agreement ("LOA") was reached as part of the parties' regular Article 3.11 Joint Steering Committee meetings (committee is responsible for the evaluation, appraisals and regularization process) to plan a gradual restart of the evaluation/regularization process in 2021. This LOA was to ensure Department Leaders were not overwhelmed with the backlog of evaluations and appraisals from 2020.

Appendix E

The following post-secondary institutions made working-from-home an option available to faculty, but did not direct that faculty were required to work from home:

- Camosun College
- Capilano University
- Coast Mountain College
- College of New Caledonia
- Douglas College
- North Island College
- Nicola Valley Institute of Technology (except for the Institute Elders²⁰, who were asked not to attend on campus for safety and health reasons)
- Selkirk College
- University of the Fraser Valley
- Vancouver Community College

Faculty at these institutions may have been encouraged to work-from-home initially if it was operationally feasible to do so. However, these institutions' campuses remained open to employees, and faculty working from their campus offices remained an available option so long as it was safe to do so within COVID-19 safety protocols.

Since June 15, 2020, the College of the Rockies has communicated that faculty working from home is encouraged but optional.

Despite the optional nature of working from home, institutions have nevertheless provided various supports to faculty who choose to work from home. Specifically:

Camosun College: Development of temporary remote work guidelines with CCFA input; provision of work-from-home office supplies and where appropriate, reimbursement of printer cartridges; availability of technology (computers, cameras, microphones, tablets, etc.) and ergonomic assessment and equipment as appropriate.

Capilano University: Provision of virtual ergonomist evaluation; centralized technology equipment loan program (computers, monitors, keyboards, mouse, headsets/microphones, webcams); centralized office furniture loan program (chairs, sit/stand desks); development of an online guide for working at home.

Coast Mountain College: development and distribution of working from home guidelines, including safety communications and change in workspace challenges.

²⁰ NVIT Elders are exempt from the NVIT bargaining unit and are not considered part of management.

College of New Caledonia: Mackenzie campus developed and distributed temporary remote working guidelines and checklist; encouraged use of professional development funds to request items needed for home office set-up, in addition to provision of equipment (webcams, laptops, microphones, and speakers) through orders to IT department or through loans from Media Services.

College of the Rockies: equipment check-out processes developed for equipment taken for home use at the beginning of the pandemic; ergonomic sessions held for tips and tricks of setting up a home office; at the start of June, all employees were provided with a “Ergo equipment toolkit” with the choice to have their workstation at home or remain on campus, which included providing faculty with a College-provided laptop (Surface), second monitor, chair, docking station, keyboard, and mouse; access to vari-desks (standing desks) and other equipment were granted based upon accommodation requests.

Douglas College: faculty provided with flexibility to choose their preference of working from home or from campus; provided with loans of equipment needed for working from home such as laptops, microphones, office equipment including chairs and monitors, mice, keyboards; SSRM department offering ergonomic assessments; comprehensive remote work guidelines and checklist for working from home; provided reimbursement of expenses for working from home equipment; approved purchases under \$100 without prior approval, higher amounts on a case-by-case basis; reimbursement of home internet expenses directly related to remote delivery of instruction up to \$30/month; stationary expense reimbursement.

Nicola Valley Institute of Technology: communication of strategies for staying healthy while working from home; offer to faculty of a computer purchase plan initiative; release for faculty member who is skilled in education technology to provide ongoing support for all faculty in the transition to online and hybrid learning; provision of laptop computer to all employees at no personal cost.

North Island College: Development and communication of working from home guidelines, including safe work practices for working in isolation, and hazard risk assessment; communication of remote work telecommuting guidelines.

Selkirk College: provision of ergonomic supports; permitting faculty to utilize campus office furnishing in their home office, including chair, computer, and other supportive technology; provision of furnishing where feasible, including footrest, ergonomic chairs, ergonomic keyboards and mouses, webcams and headphones; initial deployment of 80-100 laptops to the institution as a whole, with increasing numbers in Fall 2020; adjusting the Employer led SCFA professional development fund to support applications for education technology.

University of the Fraser Valley: allowance of temporary adjustment to Professional Development Fund rules to allow expanded access to funds, including \$1,500 towards computer, office desk, office chair, printer, scanner, webcam and docking station; additional approved items for teaching faculty include iPad/Tablet (approximately 50% of employees have accessed these funds, totaling

nearly \$500,000); permitting permanent employees access to Development and Training funds to offset cost of home internet; communication of working from home online resources.

Vancouver Community College: deployment of equipment including laptops, monitors, webcams, audio headsets, cameras, document cameras, tripods, computer software; development of an equipment sign-out process, to permit faculty to bring home campus office chair to ensure ergonomic setup; development of remote working guidelines; provision of working from home webinars; communication of process for reimbursement of remote working expenses.

Appendix F

The following is a summary by Institution of the paid non-instructional time provided to faculty:

Camosun College:

- Annually two months of scheduled development time is provided to every continuing and probationary Faculty Member, with the exception of Continuing Education Coordinators and Senior Analysts who are entitled to one month of scheduled development time. May/June and July/August are the most common periods for scheduled development and vacation. Many faculty chose to transition their course(s) to alternative modes of instruction during this period. The categories of Scheduled Development activities include:
 - **Professional Development** focuses on the Faculty Member's development of knowledge, skills, and awareness related to the Faculty Member's educational practice, area(s) of professional expertise, and current or potential college role(s).
 - **Instructional Development** focuses on the development of instruction, courses, and programs, with the purpose of enhancing student learning.
 - **Organizational Development** focuses on the development of department, school, or College operations or procedures as a means of providing an effective learning and teaching environment.
- Full-time faculty work in the range of 1435 to 1640 hours annually and it is recognized that the majority of Faculty Members experience substantial variations in daily and weekly hours of work. Contact hours for faculty carrying a full instructional load varies between 16 and 24 hours per week (further details provided in Clause 7.2 of Camosun's collective agreement). In addition to situations where faculty chose to develop/transition courses during their Scheduled Development time, the potential exists for teaching faculty to revise or transition courses to alternative modes of instruction when they are not in scheduled classes and/or during the period between the end of one semester and the start of the next.

Capilano University:

- Instructional faculty are provided with two calendar months annually for professional development activities, which may include course planning and other assigned non-instructional duties.

Coast Mountain College:

- Non-teaching workloads of faculty is comprised of a combination of non-teaching activities.
- All employees are provided with 20 working days per fiscal year to pursue professional development as part of their workload. After 70% of teaching days had been completed, the College facilitated an early stop to the winter term. This allowed up to three additional non-teaching days in the spring of 2020.
- The Centre of Learning Transformation team worked with all instructors to reduce need to have final exams, (instructors needing to evaluate each) by exploring alternate means of assessment.
- Non-teaching workloads of faculty is comprised of a combination of non-teaching activities. Faculty members are considered to be in the best position to direct their efforts.

College of New Caledonia:

- Most Full-Time instructional faculty receive 15 days annually for Preparation time and 20 days annually for Professional Development time (per article 10.18.3 of the collective agreement, faculty are expected to identify & act on their own professional development needs).
- Faculty responsibilities includes the requirement to keep up-to-date with developments in their fields, including updating of these courses and resources to keep content current as well as to further the aims and objectives of the College.
- The one faculty type which does not receive preparation time is restricted to 12-18 hours of contact time per week, for 30 weeks of the year. After accounting for collective agreement mandated professional development and vacation time, this leaves these faculty nine weeks of non-instructional time per year.
- All faculty receive 20 days (4 weeks) of professional development time per year, which could be used for enhancing teaching capabilities in an online environment.
- Full-time faculty receive a minimum of 15 working days of preparation time per working year

College of the Rockies:

- Faculty in semestered academic programs typically have months of May and June for non-instructional duties and professional development, during which time they may plan for alternative course delivery.
- Faculty in semestered academic programs have approximately 40 non-instructional days annual, not including professional development and vacation time, to adapt courses in response to COVID-19 changes.
- Average weekly student loads for Cranbrook faculty in University Studies/Career Technology in Fall 2020 were less than half the collective agreement maximum of 160 and average class size declined in fall 2020 from fall 2019 levels (See Article 5.5.5.1).

Douglas College:

- Faculty members exercise considerable discretion and autonomy with regard to how they organize their teaching-related responsibilities: for example, the number and type of course evaluations (e.g., quizzes group projects, essays, presentations, exams) scheduled throughout the semester and the distribution or timing of those evaluations over the course of the semester., Faculty members also typically have discretion over whether to require a final exam (which affects the date their final grades are due and the amount of time available for non-instructional duties prior to the beginning of the next semester), and they may schedule final exams in some courses and not in others, so that some teaching-related duties can be completed earlier than others. The exact amount of time available to an individual faculty member thus depends considerably on how the faculty member arranges their teaching-related responsibilities.
- Faculty typically teach two out of three semesters per academic year, most commonly Fall and Winter. The Summer semester is lighter, with a greater proportion of contract faculty. When faculty teach back-to-back semesters (e.g., Fall then Winter), they may use time in between final exams and the start of the next semester for non-instructional duties. The exact amount of time available to an individual faculty member depends on how the faculty member arranges their teaching-related responsibilities, including whether or not they hold a final exam; and where the start date of their courses ended in one term and started in another.
- The average number of preparation days available to faculty teaching back-to-back terms in the 2020 year ranged from approximately 9 to 18 total days, depending on the semester. The average total available preparation days if the faculty member was not scheduled to teach the next term ranged from approximately 50 to 55 business days in the 2020 year.

Nicola Valley Institute of Technology:

- Faculty typically deliver 8 course sections between September and April, though individual circumstances may vary. Faculty are allotted 20 days of professional development leave. Faculty members have considerable discretion on the use of their non-instructional days, which includes all days that they are not on professional development leave, vacation leave, or teaching.
- Professional development time may be used to update existing course material.

North Island College:

- Regular faculty are generally accountable for 10 months of time within the academic year. All regular full-time faculty are entitled to 22 days of professional development time. Collective agreement language indicates that minor curriculum development activities are included within the 22 days of professional development and major curriculum development, if assigned, was part of formal workload assignment for a maximum of 10 days
- Employees may carry over up to 12 days of professional development time if work responsibilities impair the ability to take their full entitlement.
- The formal exam period was cancelled in Winter 2020 during the height of the initial pandemic response.
- The amount of additional non-instructional time beyond professional development varied by program. Many programs have a 9-month instructional period. Several Trades programs were converted to online theory courses in March and April 2020 and instruction was paused for 4-6 weeks while safety planning took place. During the pause, many Trades faculty used formal professional development time and could have attended workshops organized by CTLI.
- Most regular instructional faculty in open enrolment programs (university transfer, career diploma, etc.) did not have direct instructional duties from the last week of April until first week of September, except for those who were assigned to teach in the 7-week Spring Intersession period as part of regular rotation schedule or due to student underload circumstances. While 22 days of professional development time and 40 days of vacation time were leave entitlements to be taken by these employees in this time period, there was significant additional non-instructional time in this 4-month period available for faculty to undertake preparations (including training) to adapt course content to digital and/or blended delivery.

Selkirk College:

- Faculty have used their CD/PD allotment of 22 days and Assigned Duty allotment of 34 days to invest in course and program redevelopment required to meet safety requirements.
- Arrangements varied by faculty, but included allowing faculty to experiment with scheduling and flexibility in office hours, encouragement to use PD/CD/AD time to prepare courses, allowances for “soft start” to winter semester to allow additional preparation time, and no requirement to account for PC/CD/AD time.

University of the Fraser Valley:

- Non-instructional time is part of instructional faculty regular work schedule. Approximately 30-40% of faculty workload is outside in-class instructional hours, including marking time, office hours, preparation time – service and scholarly activity. Course development and preparation is considered scholarly activity.
- Additionally, all faculty are provided with 20 working days per fiscal year to pursue professional development as part of their workload.
- The academic year was moved back by one week to provide additional time to prepare for online delivery in 2020.
- Support services from the library were made available to digitize teaching materials and format videos to reduce workload pressures on faculty.

Vancouver Community College:

- Faculty schedules range depending on the area of delivery and workload profile, but anywhere from 30-60% of faculty workload time is outside in class instruction hours, including marking time, office hours, etc.
- Non-instructional time varies by faculty. Faculty have Assigned Duty, Professional Development and Curriculum Development time in varying amounts. Many programs allowed faculty to use Assigned Duty and Professional Development time to transition curriculum to online formats in 2020.
- Some programs allowed Curriculum Development funding to be redirected to online course development.
- Certain practical programs were cancelled for a term as materials were redeveloped for alternative delivery.

- Allowed flexibility in scheduling and methods to align with faculty readiness

Appendix G

The following is a summary by institution of training and technological support provided to faculty by their institution in response to the COVID-19 related transition to remote learning:

Camosun College:

- Email correspondence providing a comprehensive overview of supports offered for online instruction;
- Approximately 110 workshops and drop-in sessions offered between April 2020 and January 2021 regarding transitioning to online course instruction. Instructional sessions scheduled at a similar frequency from February 2021 to June 2021;
- Individual and group consultations offered with instructional designers;
- In-person, phone, email, online and on-demand training support provided for D2L and other educational technologies;
- Frequent technology related updates through internal news channel;
- Provisioned smartphones and soft phones to staff and faculty as appropriate;
- Provided technical and user support for use with collaboration software (Microsoft Teams & Blackboard Collaborate);
- Technical support offered to faculty through multiple channels: telephone, email, web-based tickets, online chat, walk up service desks at each campus;
- Supported faculty with technical challenges relating to remote work and personal technology;
- Centre for Excellence in Teaching and Learning (CETL) provided extensive support in converting to online instruction, including e-learning workshops, drop-in sessions, and a blog containing online workshop and instruction guides. In addition, revisions were made to CETL's website so that the links to the various supports and resources were prominent and easy to locate. To address the demands of COVID, the College also made staffing investments in the eLearning unit, as follows:
 - CUPE staffing received an increase of .5 FTE from April to gDecember 2020 to provide front-line technical support to faculty. In January 2021, this FTE was increased to full time for a one-year term;
 - From May to December 2020 two additional faculty were assigned to this unit at 75% (total of 1.5 FTE);
 - CETL is currently engaged in a selection process to fill an additional full-time, continuing position ; and
 - A part-time, continuing faculty member (50%) was assigned additional workload to meet demand, often working up to 100% between March and July 2020.

Capilano University:

- Faculty permitted to use their 17% professional development time for planning course transitions;
- Centre for Teaching Excellence (CTE) provided extensive training and support for online course delivery and use of technology, including the following:
 - 22 instructional videos on educational technologies;
 - 24 workshops on educational technologies;
 - Virtual support for faculty adapting courses for remote delivery;
 - A 1-week intensive 'Online Teaching Fundamentals Micro Course';
 - A 2-week 'Active Learning Activities Online' workshop was offered;
 - Guidance documents including 'Guidelines for Effective Online Teaching – the 10 Essentials' and 'Guide to Setting up a Final Exam in eLearn';
 - eLearn course template developed and provided to faculty, which can be imported directly into an instructor's course shell and then be customized for individual teaching requirements;
 - "Sparkshops", or short on-demand mini-workshops, provided during department and school meetings
- IT department hosted MS Teams training workshops (8 sessions).
- Provision of Zoom and MS Teams resources and guides.

Coast Mountain College:

- The Centre of Learning Transformation (COLT) provided online learning support and resources, including:
 - tips for distributed learning;
 - resources for creating effective instructional videos;
 - support and ideas for prioritizing, chunking and distributing content;
 - best practices for building community and communicating with students online; and
 - instruction on using Brightspace online learning platform.
- Courses and sessions providing training on online and distributed learning technologies, including:
 - 8 1-hour sessions on using Brightspace;
 - 3 'lunch & learns' on Brightspace and Q&A for Distributed Learning;
 - 2 sections of course WALA3410: 'Distributed Learning: Navigating the Strange Lands of Pedagogy at a Distance';
 - 1 section of course WALA3230 'Evaluation of Learning';
 - 24-hour Instructional Skills Workshop, equivalent to course WALA 3220 'Delivery of Instruction'; and
 - Course entitled 'Semester Start-Up Tips'.

College of New Caledonia:

- The Centre for Teaching and Learning (CTL) provided immediate and ongoing extensive training and consultation support for transitioning courses online, including:
 - approximately 137 professional development sessions offered between March 17, 2020 and December 17, 2020 relating to transition to online instruction with further webinars scheduled to June 25, 2021;
 - one-on-one consultations with faculty;
 - ‘Faceted Friday’ professional development sessions opportunities to discuss teaching issues and specific questions regarding online learning;
 - “Online in a Hurry” course to assist in transitioning course materials to an online format; whole courses on Moodle platform can be shared without re-developing content.
- Communications referring faculty to resources for the transition to online instruction, including online office hours from BCCampus;
- Comprehensive efforts to ensure that faculty had requisite IT hardware to meet technology requirements to deliver online learning, including a July 2020 IT Hardware Survey, technology loan programs, Employer Computer Purchase Policy and use of Professional Development funds;
- IT service records demonstrate approximately 93% of service requests received from faculty members between June 29, 2020 and January 12, 2021 were resolved, closed or cancelled.

College of the Rockies:

- Contingency plans for online instruction developed in mid-March;
- Offered recorded workshops, webinars, training and resources on course design and planning; IT resources for working from home; grading and assessment; communication tools; course activity and resource courses developed by other faculty online;
- Education Innovation faculty provided support including creation of a Faculty Online Teaching Toolkit;
- Communications sent offering flexibility in expectations for faculty transitions and alternative course delivery formats, and resources and supports;
- Hired a Help Desk Technician full time, as well as moving the sessional Education Technologist to full time, and provided additional staffing in the COTROnline group providing workshops, webinars and training; and
- Additional IT support to ensure requisite equipment and technological support available for online instruction.

Douglas College:

- Provided reimbursement of expenses for working from home equipment; approved purchases under \$100 without prior approval, higher amounts on a case-by-case basis; reimbursement of home internet expenses directly related to remote delivery of instruction up to \$30/month; stationary expense reimbursement;
- Deans were permitted to use their discretion to provide up to 5 days of pay for contract faculty to acquire training or attend workshops to learn College technology, if they needed to become proficient in the College's instructional/online technologies.
- Permitted expensing of online teaching technology and equipment to Professional development funds;
- Centre for Educational and Information Technology (CEIT) provided numerous resources for online teaching technologies, including Frequently Asked Questions, and materials from Academic Technology Services regarding how to use remote learning technologies
- CEIT held ATS training workshops, including on technologies such as Zoom, Blackboard, and Teams, and drop-in online question sessions for faculty regarding online examinations. As of April 9, 2020, 57 online training webinars were offered to faculty. An open course called Online Training 2020 was offered to faculty and over 220 faculty enrolled as of April 2020.
- A free four-week course (LLPA 1100 – Online Course Creation and Delivery) designed to assist faculty in successful transition to online teaching, including instruction on design, development, evaluation and delivery.
- The Facilitating Faculty Online (FFO) strategic initiative provided pedagogical/ andragogical knowledge, technical knowledge, and key support services to assist faculty with transitioning to online course deliver, including setting up Master Blackboard Site, setting up faculty-to-faculty sharing section with questions and discussion boards, bi-weekly check-in sessions, drop-in sessions (hosted more than 50 staff in March and April 2020), individual support offered on a case-by-case basis, developing resources, and online workshops;
- Designated Educational Technology Coordinators to assist faculty through 1 to 1 support;
- The Learning Management System team and Online Designer and Trainer team responded to service requests from faculty, the LMS team at 3 times the rate of 2019 requests, and the Online Designer team at 11 times the rate of 2019 requests as of April 2020; and
- Faculties also offered additional support in setting up online learning technologies as requested on an individual basis.

Nicola Valley Institute of Technology:

- Communications sent describing supports offered by IT and the Library, including resources and meeting times to assist faculty with transition to online learning demonstrations of Microsoft Teams and educational technologies and videoconferencing tips and training;

- Courses offered free of charge during Summer 2020 and Fall 2020 - NAID 03 'Elements of Instruction: Teaching Strategies', providing instruction on various online teaching platforms;
- Leaders reached out to faculty members to understand their course load and determine what assistance was required for the Fall 2020 semester with respect to technology, online learning, Moodle and professional development;
- Faculty asked to send in requests for technology needed, and technology in classrooms and the wireless network was upgraded;
- Union members provided with a one-time technology stipend of \$100;
- New IT assistant was hired and IT support was available in each classroom for the first few weeks of the Fall 2020 semester;
- Meetings held to discuss issues, challenges, suggestions, technology overview and supports offered;
- 1-hr Lunch-time sessions offered in the Spring 2021 semester on Tuesdays, Wednesday and Thursdays with Education Technology staff to discuss navigating and building courses on Moodle and MS Teams and enhancing online instructional design;

North Island College:

- Consultations with individual faculty, Centre for Teaching & Learning Innovation (CTLI) staff, and IT were conducted;
- Increased staffing to support learning transition, including:
 - Hired 4 content subject-matter experts with expertise in online instruction for the May-June period on a part-time consulting basis through the CTLI to provide immediate support to faculty in converting curriculum for delivery in 20/21 academic year, and
 - Hired additional staff in Learning Commons Helpdesk function (CUPE Support Staff) to support students with adapting to digital learning technologies and alleviate instructional faculty from having to provide technical support to students struggling with technology issues (this included expanding hours of service – longer days and Saturday).
- A Teaching Faculty Support Survey was conducted for faculty to specify technology needs. Based on survey results, IT resources and priorities shifted to deploy technology resources to faculty;
- The CTLI provided support as follows:
 - installed new learning technology platforms and updated existing platforms, including Blackboard, BlueJeans, Kaltura, Blue, and Wordpress;
 - answered over 2000 emails, phone calls and helpdesk tickets within 24 hours between March 16, 2020 and January 15, 2021;
 - 200 offerings of 42 newly developed learning sessions on various Learning Technologies and Pedagogy Topics (1000 registrations from 210 employees), and

offerings of additional intensive 4-day institutes between March 2020 to January 15 2021.

- purchased and set up new instructor self-serve resources to support transition to digital teaching and learning;
- bi-weekly update communicated to faculty including tips, suggestions and ideas for successful teaching and learning, workshops and learning sessions; and
- two websites developed containing videos, handouts, links, resources, directions, tips and suggestions for teaching and learning in a digital format.

Selkirk College:

- Resources added to Teaching and Learning Institute (TLI), including increasing staffing by a full FTE, to provide training in remote and online delivery, education technology, and Moodle learning management system;
- TLI organized and provided online learning training from a variety of other providers, including BCCampus and Vancouver Community College;
- TLI also offered training and support, including: zoom training, online webinars, introduction to open education, evaluation of learning, instructional media, instructional skills, invigilation, online discussion forums, and sessions on using Moodle technology effectively;
- Capital budget developed for education technology and resources re-allocated to allow purchase of hardware and software for remote teaching;
- Purchased and deployed a wide range of technology including software, laptops, evaluation tools, and subscriptions to invigilation software and plagiarism software;
- Developed resource materials and new online platform for faculty and students working from home;
- IT Helpdesk support resources improved and Zoom meetings for technical assistance were offered;
- Detailed guidance on instruction during COVID-19 provided in Education Divisions Operations Manual; and
- Introduction of Proctorio (examination software).

University of the Fraser Valley:

- IT implemented video-conferencing and various teaching and learning software tools;
- Teaching and Learning Centre (TLC) developed and taught various workshops, including on the following topics: Blackboard Essentials; Adapting Instruction in Times of Crisis; Assessment; Creating a Compelling Discussion Forum; Making Course Videos; Virtual Synchronous Teaching; and Inclusivity Online;
- Professional development for new faculty was delivered in online format, including a full-day of workshops and hands-on introduction to learning environment, teaching and learning strategies, and learning management system, and two courses for new faculty;

- Training provided to faculty on the following tools: PeerScholar; WeVu; Padlet; Blackboard Ally; Camtasia; and Zoom;
- Between the beginning of remote learning and November 2020, the TLC conducted 900 personal consultations with faculty members; sent 2700 emails to faculty and students; ran over 100 workshops; and conducted 45 course review consultations for faculty;
- Faculty of Professional Studies provided additional supports from mid-March to December 2020;
- Established Online Exam Task Force which provided recommendations for online examinations to faculty; and
- New library services were provided.

Vancouver Community College:

- Centre for Teaching, Learning & Research (CTLR) offered training sessions, drop-in sessions and 1:1 help sessions, including sessions on Zoom and Moodle online platforms;
- Four additional temporary faculty positions created to provide support to faculty and departments in development of online courses;
- Online Classroom Agreement created to support faculty to manage privacy and access issues in online delivery;
- Library developed videos, 'how to' instructions, and a 'Going Online' guide to help faculty provide online course materials, as well as offering help faculty with providing access to online resources to students;
- Provided various (20+) workshops and professional development opportunities regarding online learning, including on the following topics:
 - Zoom;
 - Moodle;
 - Transition to online teaching;
 - Identifying learning material in digital format;
 - Copyright support for use of digital material;
 - Creating video recordings; and
 - Screencasts.
- Additional IT support services made available to faculty;
- Culinary Arts purchased go-pro style cameras for faculty to live stream their demonstrations as well as a higher end video camera to film/edit demonstrations so videos could be uploaded to Moodle. 6 monitors and overhead cameras were installed for faculty use in their in-person classes, so students would not need to crowd around the faculty's station during demonstrations;
- Extra staffing resources were made available to support faculty in producing demo videos;
- Certain requirements relaxed in May 2020 to allow training providers to graduate students who had met 70% of learning outcomes for a particular program;

- Tuition waivers provided to faculty enrolling in Provincial Instructor Diploma Program courses focused on online delivery; and
- Training provided on Zoom, and Moodle platforms.

Appendix H

The following provides a summary of the different types of communications, supports, resources, benefits and programs provided by institutions to employees on issues of physical and mental health, and health and safety.

Camosun College:

- extensive email correspondence regarding COVID-19 safety plans and returning to campus;
- COVID-19 specific safety training for employees and students regarding physical attendance on campus;
- communication of health and mental health supports through distribution of CamHelps newsletters;
- ergonomic resources to support working remotely where appropriate;
- promotion of EFAP services and resources offered through Homewood Health;
- curated inventories of mental and physical well-being resources;
- mental well-being awareness and education week (Thrive Week) offered workshops, seminars, and self-care resources to support mental health resilience;
- new internet hub (Camosun Community Connects) included online events, activities, and interpersonal connection opportunities such as fitness classes, workplace leader community of practice, virtual story time for employees and their children, cooking videos from culinary arts and fun photo contests;
- free flu shot clinics for employees;
- development and launch of Employee Mental Wellbeing Support Plan in November 2020;
- regular updates on Camosun’s COVID-19-related internet site (**Error! Hyperlink reference not valid.**) that features a prominent link to “Employee Resources” and COVID-19 FAQs; and
- regular updates on Safe Start Sharepoint site that included helpful documents and communications, this also included a monitored team channel and safestartsupport@camosun.ca to quickly respond to any questions or concerns from faculty and other employees.

Capilano University:

- Continuous resilience workshops (5 sessions);
- Continuous communication of health-related tips on employee intranet;
- At home live ergonomics workshops hosted by Ergonomist (4 sessions);
- Continuous free virtual fitness classes;
- Physical well-being challenges;
- Ongoing communication and promotion of EFAP resources and services, including mental health, resilience, substance abuse, anxiety, burnout.

- Substantial communication through emails, digital posters, and social media during Experience Well-being Month in conjunction with Mental Health Month, in October 2020, promoting and supporting current initiatives and available supports for well-being, including:
 - Resilience live online workshop;
 - Mindful meditation;
 - Financial well-being workshop;
 - Physical well-being workshops, including yoga and zumba;
 - Social sessions bringing employees together;
 - Calendar of well-being events on employee well-being webpage;
 - EFAP resources.
- Communication and promotion of mental health awareness day on January 27, 2021 called CapU Together, including;
 - Launching of an online mental health toolkit;
 - Resilience workshop;
 - Fitness classes;
 - EFAP resources.
- On demand eLearning training modules, including:
 - COVID-19 Safe Work Practices – Employees
 - COVID-19 Safe Work Practices – Managers/Supervisors
- Comprehensive communication regarding COVID-19 safety plans and returning to campus.

Coast Mountain College:

- Published and distributed a COVID-19 safety framework;
- The College’s facilities and finance department has established a centralized process for ordering, purchasing and distributing PPE, supplies, and equipment to all campuses; and
- Communication of weblinks containing resources for protecting mental health during a pandemic;
- Comprehensive email correspondence regarding COVID-19 safety plans and returning to campus;
- Safety training for employees and students;
- Providing access to EFAP benefits and counselling services; and
- Townhall promotion of resources.

College of New Caledonia:

- Comprehensive communication regarding COVID-19 safety plans and returning to campus;
- Provision of COVID-19 safety training;
- Comprehensive communication regarding available mental health supports with easy-access links, and conveniently accessible on the College’s COVID-19 webpage;

- Procurement and provision of PPE and plexiglass barriers;
- Providing access to Homewood Health webinars;
- Expanding benefits to include access to a digital wellness program through Manulife;
- Providing links to free mental health resources on the Employee Health and Wellness webpage;
- Providing access to EFAP benefits and counselling services;
- Ergonomic supports including virtual physio assessments;
- Online tools and resources around mental health, substance use, depression, anxiety and stress;
- November 2020 communication to employees providing a Self Care calendar and mental health supports; and
- Ongoing communication to employees in Fall 2020 and Winter 2021 on issues of mental health and available resources, promoting Mental Health month (October 2020), and safety training for those working in-person and those working remotely.

College of the Rockies:

- HR FAQ's resources issued in the first month of the pandemic;
- Ongoing Health & Safety resources through the Safety taskforce, including September kick off with safety ambassadors;
- Employee service and retirement recognitions were celebrated, albeit in a new way;
- "Wednesday wonder" videos with the President every Wednesday;
- Access to on campus gym with safety protocols;
- Webinars held on the following topics:
 - Ergonomics, ergonomic resources, and ergonomic toolkits (2 sessions);
 - mental health (3 sessions);
 - managing stress and building resilience (1 session);
- Wellness challenge;
- Access to Homewood Health webinars;
- Comprehensive communication regarding COVID-19 safety plans and returning to campus;
- Development of a Safety Task Force (new joint committee of the OH&S with unionized representatives); and
- On-going Health and Wellness Framework project, with focus group questions on the COVID impact;
- Engagement survey with questions on impact of COVID-19.

Douglas College:

- Pandemic Work Resources and Information portal containing a wide variety of wellness and health and safety resources to support employee physical and mental health, safety and wellness, provide information and maintain connection;
- College-wide Professional Development Day and other employee engagement activities continued through the pandemic via virtual platforms including:

- New employee welcome events,
- Speaker series,
- Professional development opportunities and workshops on Mental Health First Aid, mindfulness, resilience and coping strategies.
- Annual Retirement event and Employee Recognition Celebration shifted to virtual format, which included provision of the following awards:
 - Rising Star Award,
 - Above and Beyond Award,
 - Teaching Excellence Award,
 - Academic Division Award,
 - Emeritus/Emerita Award,
 - the President's Team Excellence Award and
 - the President's Distinguished Service Award.
- Douglas College Employee Ambassadors promoted engagement through creation of the virtual lounge and special holiday events such as Halloween decorating/costumes;
- Comprehensive communication regarding the College COVID-19 Safety Plan, Departmental specific safety plans and employee safety training;
- Creation of dedicated email address where employees can send their COVID-19 related safety or other concerns, questions, ideas and suggestions.;
- Free access to counselling through the Employee & Family Assistance Program (EFAP) and the Homeweb portal presented by Homewood Health, which provides e-learning, health and wellness assessments and a library of health and wellness information, and cognitive behavioral therapy for people experiencing anxiety or depression;
- Comprehensive information provided regarding government wellness resources, ergonomic resources, the COVID-19 'Resource Hub' made available by the Mental Health Commission of Canada, the free 'Mind Control' 4-week online course, and Conference Board of Canada resources;
- Free virtual fitness classes;
- The creation of the COVID-19 Employee Mental Wellness Support Plan Committee and team of Ambassadors; and
- Launch of 'Not Myself Today' workplace mental health initiative presented by the Canadian Mental Health Association in February 2021.

Nicola Valley Institute of Technology:

- Comprehensive communication regarding COVID-19 safety plans and returning to campus;
- Email communication through Employee Wellness Committee, and from Homewood Health, with respect to:
 - wellness check-ins,
 - working from home assistance, and staying healthy when working at home;
 - virtual resources for health and fitness,
 - child care support;

- managing anxiety;
- financial health; and
- self care
- Virtual meetings convened with Employee Wellness Committee, and invitation to attend open to all employees; meetings included brainstorming of virtual support and engagement ideas;
- Email communications reminding employees of available mental health support resources, including:
 - EFAP;
 - Counselling;
 - Elders; and
 - NVIT Employee Wellness Committee.
- Extended fitness benefits in response to COVID-19;
- Creation of Wellness Teams channel to connect and share health and wellness ideas, daily stretch reminders and weekly live fitness sessions; and
- Creation of wellness bags to distribute to employees at Welcome Back events

North Island College:

- Comprehensive communication regarding COVID-19 safety plans and returning to campus;
- Counselling services;
- EFAP;
- Launch of Wellness Wednesday Resources, a weekly email communication focusing on a particular topic of mental health and providing relevant resources and supports; and
- Wellness Sessions, Workshops and Webinars held in Fall 2020 and Winter 2021.

Selkirk College:

- Comprehensive communication regarding COVID-19 safety plans and returning to campus;
- Email correspondence reminding employees of available mental health supports, including EFAP (Homewood Health), mental health strategies;
- New website resources on wellness supports, housed on the human resources webpage;
- Many departments developed daily mental health check-in programs;
- Creation of three Safety Champion positions to ensure compliance with COVID-19 safety plan requirements;
- Creation of HR drop-in forums to provide mental health resources and an opportunity to discuss mental health challenges;
- Appointment of a dedicated human resources professional to provide management with support with challenges pertaining to child care/school care, family/life balance and work stress;

- Creation of a Mental Health Task Force to summarize mental health resources and information on the College website; and
- Hosting a series of presentations on topics of stress, Zoom fatigue, working from home guidelines, and childcare challenges.

University of the Fraser Valley:

- Creation of an Emergency Policy Group to provide key communications via email, University website and social media;
- Comprehensive communication regarding COVID-19 safety plans and returning to campus;
- Communicated safety plans for employees working at home in isolation;
- Launch of UFV Unite, a Facebook group designed to motivate employees in a recreational and wellness capacity, which included challenges, fitness classes, social hours, and health and wellness tips;
- Relaunch of the Strive to Thrive health and fitness challenge program, via MS Teams, and
- Learning and Development Workshop series focused on remote work assistance and other COVID-19 related topics (multiple sessions held), on topics including:
 - Home Ergonomics;
 - Self-care as Stewardship: Sustaining Wellness through challenge, uncertainty & change;
 - Mindfulness-Based Stress Reduction (MBSR) Course;
 - Anxiety, Depression and COVID-19: Supporting Yourself and Others;
 - How to remain relationally vibrant when working remotely;
 - Building Resilience in the Face of COVID-19;
 - COVID-19: Calming Your Mind in Challenging Times;
 - Understanding Self-Regulation: Strategies to Return to Calm;
 - COVID-19: Strategies for Managing Stress;
 - Mindfulness and Mitigating the Stress Response to COVID-19;
 - Understanding the impact of COVID-19 on your mental health: Supporting Yourself and Others Through COVID; and
 - The Sitting Problem

Vancouver Community College:

- Comprehensive communication regarding COVID-19 safety plans and returning to campus;
- Weekly publishing of articles on physical and mental health, along monthly themes, including:
 - Fitness tips;
 - self-care (3-part series);
 - Building reliance in uncertain times;
 - Identifying and responding to students in distress; and

- Depression and the pandemic
- Contests submitted to the Digest Employee Newsletter by Wellness Team members;
- Creation of Mental Health Steering Committee;
- Hosting of mental health workshops as part of VCC day;
- Leaders Forum meeting with department leaders dedicated to interactive discussion of wellness;
- Issuing a COVID-19 engagement survey to assess employee views on the College's COVID 19 response, and whether the College culture is having a positive impact on employee mental health; and
- Hosting a Mental Health Awareness workshop in November 2020.

Appendix I

The following is a summary by institution of workload adjustments and supports provided to faculty by their institutions, in response to the COVID-19 pandemic:

Camosun College:

- Medical Radiography Program faculty developed an adjusted schedule because their program was paused over the summer of 2020;
- Where specific concerns were brought forward to the Chair and/or the Dean/Director regarding workload, vacation and/or scheduled development, they were discussed and responded to appropriately given the individual circumstances;
- In general, the Schools allowed faculty a great deal of latitude in determining the synchronous or asynchronous nature of course deliveries;
- Communication to ensure vacation time was being taken.

Capilano University:

- No workload adjustments were requested by faculty;
- Communications to ensure vacation time was being taken.
- Faculty encouraged to use their 17% professional development time to engage in transition planning.
- Faculty were granted the option to request a one year extension to their evaluation cycle if they felt that the results of an evaluation may have been impacted by the challenges of adapting their course to a remote model.

Coast Mountain College:

- The School of Nursing underwent a review to reduce class sizes for programs holding classes in person;
- Some classes split and additional instructors hired;
- Individual adjustments to workloads and timetables were able to be requested by faculty and approved by Deans.

College of New Caledonia:

- No specific workload concerns raised, and some faculty were working less;
- Classes were suspended for one week in March 2020 to allow for online transition, and the Winter semester start date was delayed by one week;

- Once original conversion to online completed and materials were uploaded, often instructors worked less;
- Faculty are provided 2 hours per week to use for external activities, including remaining up to date on new developments and staff meetings;
- The School of Trades and Technology underwent a review to reduce class sizes for trades programs holding classes in person;
- Some trades classes split and additional instructors hired. ITA provided some additional funding for programming needs for additional instructors;
- Individual adjustments to workloads and timetables were able to be requested by faculty and approved by Deans.

College of the Rockies:

- Individual workload adjustments requested and made on a case-by-case basis and approved by department head;
- Practical education courses cancelled in May/June 2020 allowing more time to begin online course development for Fall 2020 semester;
- Faculty in vocational programs provided additional planning and preparation time by cancellation of practical education courses related to COVID-19;
- Workload implications considered and discussed at COVID-19 meeting in March 2020; and
- Laboratory course enrollments capped in Fall 2020 semester and delivery models adjusted to allow half capacity labs. Students to finish lab write-ups at home while a second group of students attends in person, as per faculty proposals.

Douglas College:

- Vacation carry-overs permitted up to 20 days under Article 17.02 of the collective agreement. Faculty who had to cancel their vacation and return to work early in order to prepare for transition to remote delivery for Spring 2020, were able to apply for vacation carry over under Article 17.02;
- Faculty exercise considerable discretion with regard to preparation and development time, as well as timing of final exams and evaluations in order to allow for additional preparation time;
- Individual requests for workload reduction and changes to teaching assignments or schedules to minimize online preparations approved on a case-by-case basis by Deans; requested accommodations to remain teaching online also considered on a case-by-case basis;
- After hearing concerns about support for contract faculty to prepare for their courses, the College advised Deans that they were permitted to approve up to 5 paid days, according to individual need, for contract faculty to acquire/learn the College's online technologies, over and above collective agreement language entitlements. Resources,

supports and learning opportunities were also offered including 1 to 1 assistance from designated peers;

- Some practicum placements for students have been re-scheduled to allow clinical sites to prepare appropriately; some placement sites have provided extra dates (in addition to those deferred) to enable smaller numbers of students on site each time, to comply with PHO guidelines regarding physical distancing;
- Some faculty workloads were maintained despite courses having to be cancelled due to the pandemic. Examples include the Teaching English as a Second Language certificate program, which did not run in Summer 2020 because it could not be adapted to remote delivery in the time available; faculty were kept at full-time employment nonetheless. Instructors in Acting and in English Language Learning and Acquisition courses were similarly kept whole despite lack of work. In the area of Vocational Education and Skills Training, faculty in the Customer Service and Cashier Training program were kept at full-time despite low program enrolment over the Fall 2020 – Winter 2021 semesters.

Nicola Valley Institute of Technology:

- No specific workload concerns raised;
- COVID-19 Accommodation Individual Employee Workplans (“IEWs”) developed and provided to employees, explained on a case by case basis (No IEW that was received was denied);
- Classes were adjusted on a case by case basis, including adding sections, splitting classes, and moving locations; and
- One class was split in order to provide an instructor with a full course load.

North Island College:

- Variance agreement negotiated between College and faculty association, dealing with number of prep periods assigned to a regular faculty member;
- Workload adjustments and course adaptations made at the department level and approved by the Deans of each faculty on a case-by-case basis;
- All Health and Human Service programming decisions implemented in spring and summer of 2020 in order to ensure students could complete practice requirements were made by departments with the consultation of the Associate Dean and approval of Associate Dean and Dean, including alternate learning delivery, program pauses, and moving classes to another semester.

Selkirk College:

- Involved union in Joint Labour Management, COVID-19 Task Groups, and President Forums to discuss policy direction and implementation;

- Worked closely with Deans and Chairs to discuss challenges experienced by faculty, share ideas and consider alternatives;
- Extra Education Council meetings and on-going updates related to programming shifts;
- Support and direction provided to instructors by administration, committees, and leadership team;
- Contingency funds used to support educators with project release;
- Guidance and training provided to manage workload in remote and online delivery;
- Instructors encouraged to manage course work assignments and consider number and type of evaluations;
- Faculty release provided for a variety of support roles resourced by the institution;
- Individual faculties made individual workload adjustments, including:
 - restricted vacation carry-over or considered on a case-by-case basis
 - postponed practice placements
 - reallocated instructional hours to support delivery of virtual practicums;
 - individual requests for workload changes granted;
 - courses moved to different semesters;
 - additional pay granted to instructors in certain circumstances;
 - certain under-enrolled courses went ahead rather than being cancelled or replaced;
 - certain course enrollment capped; and
 - lab courses adapted to shorter instructional time

University of the Fraser Valley:

- Classes were suspended for one week in March 2020 to allow for online transition. The academic year was moved back by one week to provide additional time to prepare for online delivery in 2020.
- Deans addressed class size and workload issues arising as a result of transition to alternative delivery models;
- Communications to employees to ensure vacation time was being taken;
- Postponed/adjusted practical placements, particularly in Health Sciences;
- Some faculty members moved from teaching to support roles with equivalent workload conversion due to low enrollment in ELS;
- Biology laboratory class sized increased in order to facilitate half the class working in the lab and half working online, reducing instructor interactions to 50% of students at a time; and
- Adjustments to trades delivery occurred to facilitate safe delivery of practical components.

Vancouver Community College:

- Workload adjustments made on a program-by-program basis based on individual circumstances;
- Culinary program went fully online for 3 months and faculty used time to plan transition; students were brought back for some in-person training in June 2020;
- In the Hospitality Management program, 20 days of assigned duty in May 2020 and 20 days of professional development in June 2020 were used to support transition to online teaching for September 2020 term;
- Deans addressed class size and workload issues arising as a result of transition to alternative delivery models;
- Deans asked to review allocation of Curriculum Development Funds and prioritize projects supporting online/alternative delivery;
- In the School of Health Sciences, some program intakes for May 2020 were cancelled to allow the programs time to develop new hybrid model of delivery for the September 2020 intakes;
- Job Readiness Program in the Deaf & Hard of Hearing department cancelled to allow department to replace practicum component of the program with experiential learning experiences;
- The School of Instructor Education department was fully online prior to COVID-19 and they quickly developed a short intensive course called "Facilitating Learning Online Fundamentals." Several faculty at VCC completed this course tuition-free during the transition.

Appendix J

The following summarizes the usage rates of physical and mental health benefits, and the occurrence rates for WorkSafeBC claims, as compared to pre-pandemic time periods.

Sector-Wide

Data was not available for all named institutions given small sample sizes and privacy considerations, however, Manulife has provided a summary of mental and nervous disorder-related STD and LTD claims within the post-secondary sector as a whole, which reflects:

- A minor increase in STD and LTD claims as compared to 2019; but
- A decrease in STD and LTD claims as compared to 2018.

Camosun College:

- No increase in STD usage across the College as compared to pre-pandemic years;
- No increase in CCFA absences in excess of 5 days as compared to pre-pandemic days;
- Minor decrease (1%) in EFAP usage across the College from September 2019 to September 2020 in comparison to prior year;
- Similar minor decrease in new LTD claims across the College during the pandemic; and
- In 2020 only 3 CCFA members were in receipt of WorkSafeBC wage-loss benefits, all of which were for physical injuries.

Capilano University:

- Decrease in use of Homewood Health EFAP services;
- No WorkSafeBC claims received.

Coast Mountain College:

- No increase in STD usage as compared to pre-pandemic years;
- No increase in LTD claims during the pandemic;
- Minor increase (2%) in EFAP usage during the pandemic (information is College wide, not bargaining unit specific); and
- No increase in WorkSafeBC claims, all of which were for physical injuries (ie. slips, trips and falls) (information is College-wide, not bargaining unit specific).

College of New Caledonia:

- No increase in EFAP usage between spring 2019 and spring 2020;
- 50% decrease in STD usage between spring 2019 and spring 2020;
- Decrease in LTD usage between 2019 and 2020; and

- 1 WorkSafeBC unsafe work refusal which was resolved through WorkSafeBC process with union and affected faculty; no other WorkSafeBC claims received.

College of the Rockies:

- Over 50% decrease in EFAP usage;
- 2 faculty on STD for non-COVID related reasons (as compared to 5 in 2019)
- No time off work claims under WorkSafeBC

Douglas College:

- No increase in sick leave compared to pre-pandemic years;
- Minor increase in STD usage as compared to pre-pandemic years;
- Minor decrease in LTD usage as compared to pre-pandemic years;
- 3 Worksafe BC claims received in 2020; 2 occurred prior to the pandemic and 1 claim for wage loss for home-based physical injury.

Nicola Valley Institute of Technology:

- Anecdotally, the Institute has seen no increase in sick leave usage, STD claims, or LTD claims as compared to pre-pandemic years.
- The Institute has had 2 employees on non-COVID related STD leaves, who have now returned to work, and 1 employee transitioning to a non-COVID related STD leave.

North Island College:

- Decrease in usage of Family Illness Leave;
- No significant change in absences in excess of 5 days, and none of these absences transitioned into STD or LTD;
- Minor (4%) increase in EFAP usage;
- 2 WorkSafeBC claims, both related to ergonomics, 1 of which arose prior to the transition to online learning. The claim arising during the pandemic has been denied by WorkSafeBC and is proceeding as an STD claim.

Selkirk College:

- No increase in sick leave, STD, or LTD claims as compared to pre-pandemic years;
- Overall decrease in EFAP usage; and
- No significant increase in WorkSafeBC claims.

University of the Fraser Valley:

- Decrease in STD usage;

- 50% decrease in LTD claims;
- 70% decrease in WorkSafeBC claims;
- Sick leave utilization was 2.25 days less than prior average

Vancouver Community College:

- EFAP Counselling services utilization increased from 52 to 53 cases representing insignificant increase of 1.9% from 2019 to 2020.
- Sick leave usage for permanent faculty decreased from 2019 to 2020 from 2,664 to 2,104 total days representing a 21% decrease.
- Average Sick Leave days decreased by 34.7% from 2019 to 2020.
- There were no WorkSafeBC claims in 2020.
- STD dropped from seven (7) cases in 2019 to four (4) cases in 2020 representing a decrease in cases of 42.9%.
- LTD cases remained the same at one (1) new case each for 2019 and 2020.

Appendix K

In response to the allegations in the Application that faculty are concerned over job security, the following is a summary of the layoff activity by institution during the pandemic, which demonstrates most institutions have not laid off any faculty, and those that have laid off faculty have done so at an extremely low rate:

Camosun College: A total of 4 CCFA faculty originally received notice of layoff (out of approximately 427 total CCFA faculty as per the September 2020 CCFA seniority list): 1 faculty member in the School of Health and Human Services received layoff notice, and 3 faculty members received layoff notice due to the closure of Continuing Education. Since the date when these faculty members received layoff notice, the CCFA faculty member in the School of Health and Human Services has been recalled to her continuing, full-time position effective February 16, 2021; as well, the College has transferred 2 of the faculty members from Continuing Education to continuing, full-time positions in alternate departments at Camosun College. Accordingly, there is a total of 1 CCFA layoff as the affected CCFA member selected severance without reappointment as her layoff option.

Capilano University: 10 layoffs initially, reduced to 7 as 3 faculty could be reassigned replacement work (out of 680 total faculty) (layoff was due to reduction in international students)

Coast Mountain College: 0 layoffs (out of 62 total faculty)

College of New Caledonia: 0 layoffs (out of 349 total faculty) (although layoff of up to 21 faculty has been authorized effective July 2021 due to declining enrollment (partially COVID-related); no staff layoff due to transition to online learning in Spring/Summer 2020)

College of the Rockies: 0 layoffs (out of 155 total faculty)

Douglas College: 10 layoffs issued (most of which were planned prior to the pandemic); two recalled. Only 1 layoff was directly related to COVID-19. Less layoffs overall in 2020 than in 2019 (out of 550 total regular faculty)

Nicola Valley Institute of Technology: 0 faculty layoff, one support staff layoff (0.57 FTE) (out of 78 total employees)

North Island College: 11 layoffs initially (7 FTE), reduced to 7 (4 FTE) (out of 353 total faculty) – layoffs related to pandemic-related reduction in programming

Selkirk College: 0 layoffs (out of 224 total faculty)

University of the Fraser Valley: 1 layoff (out of 527 total faculty)

Vancouver Community College: 0 layoffs (out of 655 total faculty) (some term contracts not issued or renewed)

Appendix L

The following is a summary of the grievances filed by the faculty associations on issues that have been raised in the Application, including the dates filed and the current status of each grievance. No such grievances have been filed against Capilano University.

Camosun College:

Grievance Subject	Date Filed	Status
<p>Excessive Workload (COVID)</p> <p>Winter 2020 grievances alleging faculty workloads for Winter 2020 violated workload provisions of the collective agreement</p> <p>Spring/Summer 2020 grievance alleging faculty workloads for Spring/Summer 2020 violated workload provisions, as well as vacation and scheduled development provisions</p> <p>(5 grievances: 4 for Spring/Summer Terms, and 1 for Winter Term)</p>	<p>Winter 2020 grievance filed at Step 2 June 25, 2020</p> <p>Spring/Summer grievances filed at Step 2 October 13, 2020</p>	<p>President's Step 3 Response sent to Union January 28, 2021</p> <p>Extensions were granted by both parties as detailed in the College Step 3 response.</p>
<p>Access to e-Learning Workshops</p> <p>(alleging violation of collective agreement because some faculty could not access full eLearning workshops; no specific details provided)</p>	<p>May 12, 2020</p>	<p>Withdrawn without prejudice October 7, 2020</p>
<p>Performance Appraisals (COVID)</p>	<p>September 28, 2020</p>	<p>Union Step 3 response received January 29, 2021.</p>

(alleging violation of collective agreement with respect to whether there was a modified method of gathering student feedback as part of the faculty appraisal process)		
Continuing Education and Contract Training Layoff (alleging layoffs were in violation of collective agreement provisions)	January 11, 2021	Employer Step 1 response provided to the Union on February 5, 2021.

Coast Mountain College:

Grievance Subject	Date Filed	Status
Videoconferencing (alleging collective agreement violations based upon faculty teaching by videoconference for the first time) (3 grievances)	December 15, 2020	Withdrawn effective January 14, 2021 (Step 1 response deadline was January 15, 2021)
COVID Variance (alleging violations of collective agreement based upon unilateral change to employer operations and provision of services)	December 18, 2020	After miscommunication about meeting dates and direct referral, grievance was referred to arbitration effective February 4, 2021, and parties are currently setting hearing dates.
Technological change (alleging a “failure to reach agreement on a Letter of Understanding regarding	December 18, 2020	Direct referral to arbitration effective on December 23, 2020. Mark Brown has been appointed as arbitrator, with January 2022 hearing dates.

adjustments to the collective agreement to arbitration” and “Discussions between the Parties have failed to reach an agreement on a Letter of Understanding for a temporary variance to the collective agreement which is creating significant disruption on the workplace and bargaining unit”)		
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College of New Caledonia:

Grievance Subject	Date Filed	Status
Workload (alleging violation of collective agreement for delay in providing faculty workload information for intersession)	May 27, 2020	Resolved June 1, 2020
Online Distributed Learning/Remote Work (alleging violation of collective agreement based upon alleged assignment of online courses for intersession)	June 1, 2020	Referral to arbitration filed October 26, 2020. Arbitrator Ken Saunders has been appointed, and arbitration hearing dates scheduled for November 23-26, 2021.

College of the Rockies:

Grievance Subject	Date Filed	Status
Remote work Expenses	September 18, 2020 (at Step 2)	Grievance was held in abeyance until Step 2 meeting was held January 15, 2021.

(policy grievance, alleging failure to pay cost of delivering courses form home)		Step 2 response filed January 26, 2021, and Union referred matter to arbitration effective February 9, 2021. Union is also compiling a list of items and costs to facilitate further discussions.
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Douglas College:

Grievance Subject	Date Filed	Status
Technological change Failure to offer or discuss compensation related to distributed modes of learning	May 1, 2020 (at Step 3)	Referral to arbitration filed June 17, 2020, and DCFA took no further action on the matter until December 2020.

North Island College:

Grievance Subject	Date Filed	Status
Tech Change, Remote Work and Distributed Learning (alleging no advance notice, or consultation, on program delivery changes)	April 3, 2020	Step 2 response filed April 24, 2020, and Step 3 meeting occurred May 2020. Union emphasized need for consultation during Step 3 meeting, and weekly meetings were occurring by mid-May.
Intersession (Individual Grievor) (alleging grievor inappropriately assigned intersession courses when meeting minimum student load)	March 31, 2020	Step 3 meeting held and employer response provided on May 6, 2020. NICFA advised during a January 2021 Labour Management meeting that they are consulting with FPSE on whether to refer the grievance to arbitration.
Course Caps	April 3, 2020	Step 2 meeting and response completed on April 20, 2020, with

(alleging course caps changed with no consultation with department, faculty employee or union)		College agreeing to maintain course caps that had pre-pandemic been in practice for digital courses in Business program for the 2020/21 year. Grievance abandoned, as no Step 3 filed within timelines.
Professional Development (alleging faculty deprived access to professional development days)	April 3, 2020	Step 2 meeting held, during which Union unable to identify any specific individuals denied a request to take professional development in a single block of time.

Nicola Valley Institute of Technology:

Grievance Subject	Date Filed	Status
Layoff (COVID) (alleging breach of collective agreement with respect to layoff of support staff due to COVID-closure of bookstore)	May 15, 2020	Resolved at mediation on November 20, 2020.
Technology stipend (alleging violation of collective agreement based upon Joint Professional Development Committee decision to approve \$100 Professional Development stipend to reimburse personal technology expenses incurring by faculty choosing to work at home)	July 13, 2020	Resolved by the parties on December 18, 2020.

Selkirk College:

Grievance Subject	Date Filed	Status
Distributed Learning / Remote Work (alleging violation of collective agreement based upon shift to distributed learning, including issues of workload, and work from home expenses)	July 15, 2020	Referral to arbitration filed September 22, 2020. Arbitrator Mark Brown has been appointed, and the following dates have been set: mediation June 16, 2021, and arbitration hearing October 18-22, 2021.

University of the Fraser Valley:

Grievance Subject	Date Filed	Status
Class size (graphic design) (alleging violation of collective agreement based upon increase in class size as a result of shift to online learning model)	September 25, 2020	Post-Step 3 and working towards a resolution.
Failure to consult (alleging breach of collective agreement based upon alleged failure to consult prior to introduction of Blackboard Ally (e-learning) software)	November 27, 2020	Step 3 response and offer to settle provided by the University on December 21, 2020. On January 27, 2021 the Union requested the grievance be placed into abeyance pending result on this, and Section 54, application before the Board. This request was denied by the University on January 28, 2021.
Failure to follow safe work processes (COVID)	December 16, 2020	Step 3 – grievance meeting held February 8, 2021. Step 3 response due February 24, 2021. In meantime,

		Worksafe BC conducted investigation with no orders issued.
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Vancouver Community College:

Grievance Subject	Date Filed	Status
Remote Work Expenses (alleging violations of collective agreement based upon alleged failure to pay employee working from home expenses)	October 21, 2020 (at Step 2)	Employer Stage 2 response filed November 18, 2020. Step 3 meeting held within 7 days. Union has not advanced to Stage 3 arbitration.