



Ontario Confederation of University Faculty Associations
Union des Associations des Professeurs des Universités de l'Ontario

OCUFA Update on the Changing Workplaces Review Interim Report

August 2016

In the spring of 2015, the Government of Ontario launched the Changing Workplaces Review – a comprehensive review of employment and labour law to address the rise of precarious work. Faculty associations have been actively engaged in this process, which has been led by two [Special Advisors](#) appointed by the government. OCUFA made a [submission](#) and thirteen faculty association representatives presented at public consultations across the province. On July 27, the long-awaited [Interim Report](#) of the Changing Workplaces Review was released. The report outlines the recommendations that were heard to date and lays out several options for ways forward on each issue.

OCUFA's [initial response](#) to the report is available on our website. The report has the potential to serve as a starting point for a bold plan to address precarious work and promote good jobs at Ontario's universities and throughout the broader economy. OCUFA estimates that the number of courses taught by contract faculty in Ontario has doubled since 2000. The growth of precarious academic work and the job insecurity, unpredictable scheduling, unfair wages, and lack of access to benefits that contract faculty face have brought the need for stronger employment and labour laws into sharp focus.

Overall, the Interim Report recognizes that the rise of precarious work “is an urgent and serious threat to the well-being, not only of a significant number of workers in Ontario, but also to their families and Ontario society” (p. 8). It also provides some strong guiding principles that we can encourage government to adopt going forward including that the “right to meaningful collective bargaining is a critically important constitutional right” (p. 16) and that “decent work” should form the basis for employment and labour law (p. 12).

The Interim Report confirms that faculty voices were heard. In particular, faculty association input is attributed directly in the section on wages and benefits for part-time and temporary work:

“University faculty associations have raised the issue of providing the same wages and benefits to part-time, contract faculty as full-time faculty in order to address growing concerns regarding precarious work in the sector” (p. 227).

All five of OCUFA's recommendations are reflected in the options outlined in the report:

- 1. OCUFA on fair pay and access to benefits:** “All workers, including part-time and contract workers, should receive equal pay for work of equal value and equal access to benefits regardless of their employment status.”

In the report: The report acknowledges inequality between part-time, contract, and full-time employee wages and urges that this issue be considered carefully along with access to benefits (p. 39 and 40-1). An option listed in the report is that it be required that “part-time, temporary, and casual employees be paid the same as full-time employees in the same establishment unless differences in qualifications, skills, seniority, or experience or other objective factors justify the difference... This could apply to pay or to pay and benefits” (Option 2 and 3, Section 5.3.7, p. 227-8).

- 2. OCUFA on more secure and stable work:** “The use of discontinuous contracts to prevent the achievement of workplace rights should be eliminated by requiring that after an employee has been employed on a number of fixed-term contracts their employment is continuous for all purposes.”

In the report: The report acknowledges that contracts are often renewed “over many years so that they appear to be almost permanent” and “in some professions and disciplines, permanent employment with the salaries, benefits and security that come with it seems remote and impossible to attain” (p. 40). It also recognizes concern about the “growth of individuals working on ubiquitous fixed and limited term contracts” and “the lack of security, particularly in instances where it appears that employees are kept in such positions indefinitely to justify lower wages and lack of benefits” (p. 221). An option laid out in the report is that a limit be placed on the number or total duration of limited term contracts (Option 5, Section 5.3.7, p. 228).

- 3. OCUFA on reasonable notice of work:** “Employers should be required to provide employees with at least two weeks’ notice of work.”

In the report: The report acknowledges workers’ need for predictability in their work lives (p. 39). An option listed in the report is that all employers be required to provide advance notice in setting and changing work schedules to make them more predictable, including posting schedules at least 2 weeks in advance and require employers to pay employees more for last-minute changes to schedules (Option 4, Section 5.3.2, p. 203).

- 4. OCUFA on bargaining unit structure:** “The Ontario Labour Relations Board (OLRB) must be empowered to redefine the scope of an existing unit, merge bargaining units, or combine newly certified workers into an existing unit, if requested by the union.”

In the report: The report acknowledges the issue of “whether there ought to be an explicit power to revise, amend and consolidate bargaining units... in circumstances where the original bargaining unit structure is no longer appropriate” or “where bargaining units are overly fragmented” (p. 86). It outlines that unions are interested in ensuring that when smaller units are certified that a mechanism exists for combining them into “more rational” bargaining structures (p. 88). An option is included that would reintroduce the consolidation provision that was in the Labour Relations Act from 1993-95 that allowed the OLRB, upon application from the union or employer, to consolidate bargaining units where the employer is the same and only one union is involved (Option 2, Section 4.3.4, p. 86 and 88).

- 5. OCUFA on the right to collective representation:** “The Labour Relations Act should be updated to ensure workers can organize collectively to improve their conditions of work and join a union, including by providing automatic card-based certification, requiring the reinstatement of employees during organizing drives, and making first contract arbitration more accessible.”

In the report: The report acknowledges that research shows mandatory vote models of union certification are associated with fewer certification applications and lower success rates than card-based certification (p.72). An option is included to reinstate card-based certification (Option 2, Section 4.3.1.1, p. 73), to protect against unjust dismissal before a first contract is reached (Option 2, Section 4.5.2, p. 106), and to make first contract arbitration more accessible (Section 4.3.2, p. 82).

Other issues

Some consideration was given in the report to new models for broader-based or sectoral bargaining, with a focus on difficult-to-organize workplaces primarily in the private sector. Various models have been proposed including models that allow for negotiated standards to be extended to workplaces

within a sector and region, for newly organized workplaces to attach to a negotiated sectoral agreement, and for unique bargaining structures to be established in specific industries where the current model is inappropriate or ineffective (Section 4.6.1, p. 113-126). Given the need to organize more workers in precarious jobs and that models for broader-based bargaining would be novel features of Ontario labour law, these potential provisions are likely to garner attention from experts and unions in the coming months.

While generally not addressed in the submissions received, the Special Advisors who have been leading this process chose to dedicate a section of the report to exploring non-union models of “employee voice” (Section 4.6.2, p. 126-133). However, the report also acknowledges concerns about non-union forms of employee representation being “employer-dominated” in some jurisdictions (p. 129). Going forward it may be appropriate to encourage the Special Advisors to prioritize removing unfair barriers to joining a union rather than circumventing them with non-union models of representation, as well as ensuring that any new structures for representation provide workers with meaningful influence over their working conditions.

Next steps

The Interim Report will be followed by a short period for further consultation. **All feedback is due no later than October 14.** Several issues of concern to faculty have been identified by the Special Advisors as areas for further comment, including wages and benefits for part-time and contract workers and scheduling. Any faculty association that would like to send a letter providing further feedback on these or other issues, should contact Brynne (bsinclair-waters@ocufa.on.ca).

After this next period of consultation wraps up, the Special Advisors will prepare a final report that includes recommendations for the provincial government to consider. All of OCUFA’s five areas of recommendation have been noted and reflected in the options put forward in the Interim Report. Our next task is to continue our advocacy work so that they are also included in the final recommendations that are scheduled to be released in early 2017.

After the final recommendations are released, a political decision will be made about which recommendations to include in proposed legislation and our Members of Provincial Parliament (MPPs) will be deciding what to support. This makes the next few months a crucial time for our advocacy on these issues. We will continue to urge the government not miss this opportunity to update the law to bring more fairness for contract faculty and all workers in precarious jobs.