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## *Insights*

### **“How Government Mandates Shape and Constrain Collective Bargaining in BC’s Universities”**

*by Annabree Fairweather*

Government mandates have significantly shaped and constrained collective bargaining in British Columbia’s public sector, particularly as they’re enforced by the British Columbia Public Sector Employers’ Council (PSEC) Secretariat. For the public post-secondary sector, the legal framework of the university asserts its autonomy from government to operate under the Board of the Governors as the technical legal employer. And yet the government, which provides only around 41% of the university’s budget, inserts itself into the employer-union relationship by dictating key aspects of the faculty collective agreement. This intrusion into post-secondary labour relations is partly responsible for the two historic strikes at UNBC.

#### **Evolution of PSEC: From Language Uniformity to Wage Control**

The history of PSEC’s role in public sector bargaining dates back to its creation in 1993 under the *Public Sector Employers’ Act*. Initially, the Council’s function was to bring uniformity to contract language across various public sector agreements. Over the past three decades, PSEC has evolved from an advisory body into an authoritative force controlling both wages and working conditions, including non-monetary rights. While the original intent may not have been to undermine union power, PSEC has gradually expanded its influence, moving from simply monitoring compensation policies to enforcing strict financial limits on contract negotiations. Today, PSEC ensures that all public sector unions are subject to the same general wage increase, contract length, and bargaining cycle, leaving little room for sector-specific negotiations. This standardization disregards economic factors such as inflation, cost of living disparities, and market competition, and it precludes local solutions to addressing growing workload demands and class sizes making it difficult for post-secondary institutions to attract and retain top talent. After all, post-secondary education operates in national and even international markets that push the boundaries of regional market competition and transcend BC’s boundaries.

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## PSECs Deepening Influence and Anti-Unionism

PSEC's influence has remained intact across different political administrations, demonstrating the entrenched nature of government control over public sector labour relations. One of the most concerning aspects of PSEC's control is the lack of autonomy granted to university Boards of Governors. In BC, government appointees hold a majority representation on these boards, ensuring compliance with PSEC's mandates. Any university board that defies these directives risks punishment, as demonstrated in the case of Okanagan University College in 2002. The university college's board agreed to a settlement with faculty that exceeded PSEC's terms and within three years, Premier Campbell dissolved the institution, dividing it into UBC-Okanagan and Okanagan College. This extreme response sent a chilling message to all: defying PSEC's mandates is not an option. Since then, no university board or president has dared to challenge PSEC's authority, further entrenching government control over labour negotiations.

## PSEC as Both Sword and Shield

PSEC is undoubtedly real, but it acts like the Wizard of Oz who hides behind a curtain and pulls all the strings. At the table, employers use PSEC as both a sword and a shield, claiming that because of specific direction from PSEC, they can't agree to *this* (shield) or they must achieve *that* (sword). The employer's own mandate and PSEC's often become conflated such that the union never knows with whom it's bargaining. Is it the Board of Governors who's pushing for draconian management rights or is it government? Yet PSEC delegates aren't in the negotiating room, and they only speak in the ear of the employer. This structure blurs accountability, making it unclear who holds final decision-making authority.

PSEC creates a layered bureaucracy where employers act as intermediaries rather than decision-makers. Faculty unions negotiate with university representatives, yet all proposals must be approved by PSEC, causing delays and limiting meaningful bargaining between the legitimate parties to the agreement. PSEC's dominant role has led to widespread dissatisfaction among faculty associations, which face prolonged negotiations and, in extreme cases like UNBC in 2015 and 2019, strikes and labour board disputes to resolve impasse.

## What Can Be Done?

The future of collective bargaining in BC's public sector remains uncertain, but several potential avenues for change exist. The Supreme Court of Canada has increasingly recognized free and fair collective bargaining as a Charter right, strengthening the legal foundation for potential challenges to PSEC's authority. We saw this in the University of Manitoba Faculty Association case that found government interfered in collective bargaining. We also saw this in the Ontario case where Premier Doug Ford tried to introduce a model of coordinated sector bargaining similar to BC's structure. It failed in a big way.

While previous court challenges have been costly and politically sensitive, the shifting legal landscape suggests that a well-organized legal challenge brought on by the Big Labour Movement could be successful in curbing PSEC's overreach. Additionally, faculty associations and other public sector unions have strengthened their bargaining power through unionization, demonstrating resilience in the face of government constraints.



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However, PSEC has shown that it is willing to push negotiations to the brink of impasse, forcing unions into difficult positions to maintain its control.

Political mobilization remains the most viable strategy for restoring true collective bargaining rights in BC. Given that PSEC operates without a formal legislative foundation, its power is primarily rooted in political culture rather than legal authority. This means that sustained public pressure, advocacy, and political engagement could lead to meaningful reforms. The 2022 Shared Recovery Mandate, for instance, marked a temporary shift in PSEC's approach, offering historic wage increases and tempering its usual hostility toward unions. While this was a positive development, it is unlikely to be a permanent change, especially if future governments adopt more austerity-driven policies.

Our collective efforts in the long-term must focus on dismantling the structures that enable PSEC's continued interference in collective bargaining.

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*CUFA BC represents over 5,500 faculty members, including professor, academic librarians, lecturers, instructors, and other academics at the five research-intensive universities in British Columbia, which include University of British Columbia, Simon Fraser University, University of Victoria, Royal Roads University and University of Northern British Columbia.*

*CUFA BC celebrates fifty years of working closely with the member Faculty Associations at each institution. Our purposes are to support high-quality post-secondary education and research in British Columbia and to advocate for the interests of our members.*

NOTE: This article is modified from an original article appearing in the OCUFA Academic Matters publication in Fall 2020: <https://academicmatters.ca/bargaining-in-the-shadow-of-bcs-public-sector-employers-council/>

