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## Panel: Multi-Employer Negotiations in Higher Education

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## Multi-Employer Negotiations

Thank you for inviting me here today to talk about our experiences in British Columbia with multi-employer negotiations. To be clear, I'll be talking about multi-employer negotiations in the public sector because most of the BC education system falls into that category.

In Canada in general we have a relatively high rate of unionization – at about 30%. Since the 1970s, in post-secondary education that figure skyrocketed to about 90% of universities and most of the colleges across the country. So we are well positioned for this type of negotiation framework.

In BC, the public sector employs approximately 387,000 people and about 313,000 are unionized, working in the direct public service, crown corporations and agencies, and in the K-12, post-secondary, health and community social services sectors. Our federation, the Federation of Post-Secondary Educators, is comprised of approximately 10,000 unionized college and university faculty in BC.

I'll be explaining our present bargaining structure, but first I'm going to review a little bit of how we got to this model. I think it's fair to say that the multi-employer model of negotiations developed in the first place because, at different times, and for quite different reasons, the model suited the collective self-interest of the negotiating parties. At different times and for different reasons, it has been an advantage and a disadvantage.

Post WWII and until the early 1960s, British Columbia had only one public university, the University of British Columbia. During the 1960s, other universities opened their doors, along with the BC Institute of Technology and a number of publicly funded vocational schools across the province. In 1962, then UBC president John B. McDonald convened a group of faculty to study the province's long-term needs for post-secondary education. That committee recommended a number of public two-year colleges be established in the various parts of the province with a mandate to deliver academic university-equivalent education, as well as career, technical and occupational training. Each were to be self-governed, with its own board and policies, and accountable to their local communities, funded partly through the tax base. These were to be comprehensive institutions with a broad curriculum and wide range of programs, focusing on teaching.

At that time, faculty associations were professional societies under the *Societies Act* and provisions for faculty working conditions, rights, benefits, salary and other terms of employment varied considerably from college to college. In 1973, the then new labour statute, the *BC Labour Relations Code* provided for faculty to organize, become certified as trade unions under the *Code* and bargain collectively with their employers. Most did. At that time there was limited province-wide coordination of faculty collective bargaining by either the faculty unions or the institutions.

By 1975, 14 new colleges had been established in various parts of the province and were melded with the existing vocational schools. They developed into institutions that were relatively independent of each

other and of government. Faculty associations were members of the College Faculties' Federation (CFF), one of the predecessors of FPSE, which provided labour relations services to constituent members. On the employer's side, the BC Association of Colleges was established in 1976.

In 1977, the *Colleges and Provincial Institutes Act* was enacted, giving each college and institute its own corporate status, ending their relationship with the school boards and removing local taxation as a source of institutional funding. The provincial government was to fund colleges and appoint their boards, eventually allowing employee representation on the boards. The government increasingly became the primary funding source for both the operating and capital costs of the colleges and institutes, and it took a more direct role in approving and monitoring operating budgets and program approvals. Throughout the 1980s, collective bargaining in the college and university sector continued to be relatively decentralized.

In 1980 the CFF was disbanded and another predecessor of FPSE, the College Institute Educators' Association of BC (CIEA) was created. As a larger organization, CIEA could more effectively coordinate its members' collective bargaining and lobbying efforts with government on important issues of the day.

From 1982-85, the provincial government's Compensation Stabilization Program incurred cutbacks to a wide range of programs and services across health care, social services and education. In July, 1983, the provincial government tabled the most repressive legislation against workers in Canadian post-war history. Contractual rights

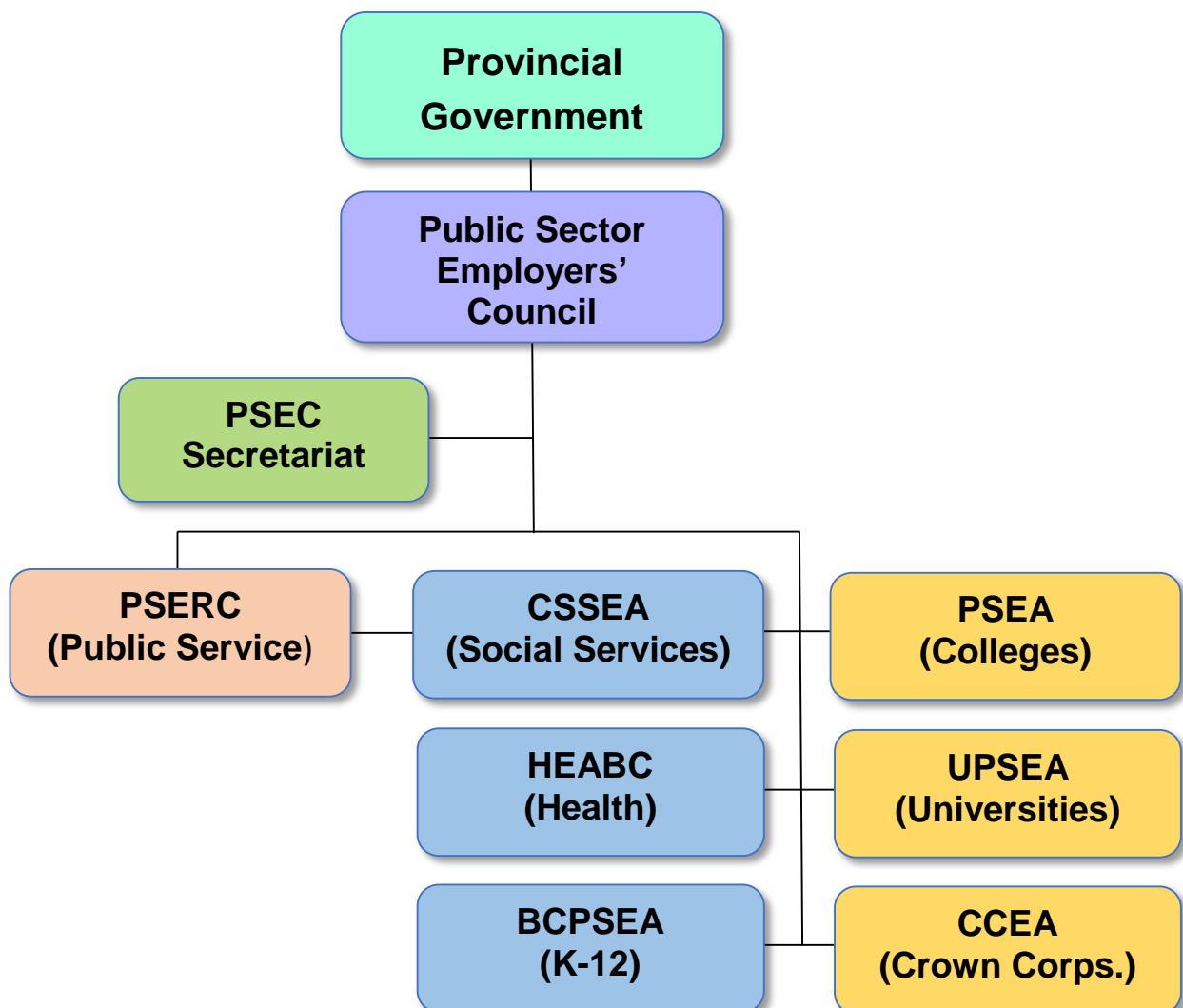
negotiated over that past decade were wiped out and many areas were put beyond the scope of collective bargaining. Compensation levels could be frozen or reduced and employers would be able to terminate employees without cause. Within days, community and social issue groups and unions joined together to form the Solidarity Coalition and that summer and fall were rife with demonstrations and protests against the government's actions. In August, 50,000 protesters filled Empire Stadium in Vancouver and in October 60,000 marched under the Solidarity banner through downtown Vancouver. Planned escalating strikes began to unfold. A 1986 judgment by the International Labour Organization condemning BC's actions as a violation of the principles of free association and collective bargaining set out in international agreements had no effect on the government's determination to continue its restraint program.

CIEA became a leader in the Defend Educational Services Coalition (DESC), a coalition of six organizations representing 100,000 students, staff and teachers in the education sector. Throughout the '80s, CIEA's resources were able to provide a legal defense fund for arbitrations and Labour Relations Board/court proceedings, and a strike/lockout fund to support members' collective bargaining.

After a decade of labour strife, a new provincial government sought to create a new collective bargaining framework. They established the *Commission of Inquiry into the Public Service and Public Sector*, with mediator/arbitrator Judi Korbin as Commissioner. Among other things, the Commission was to recommend the roles of government in rationalizing compensation levels, defining collective bargaining structures, standardizing employee benefits, and collecting, analyzing

and distributing information regarding the cost of services. In 1993 the final report was issued, establishing the basis for enacting the *Public Sector Employers Act*, which established six sectors: health, social services, K-12 public education, colleges and institutes, universities and crown corporations, agencies, and commissions. Six employer associations were created by the *Act*, accrediting the associations with bargaining agent status. This created several levels of bureaucracy on the employers' side of the table.

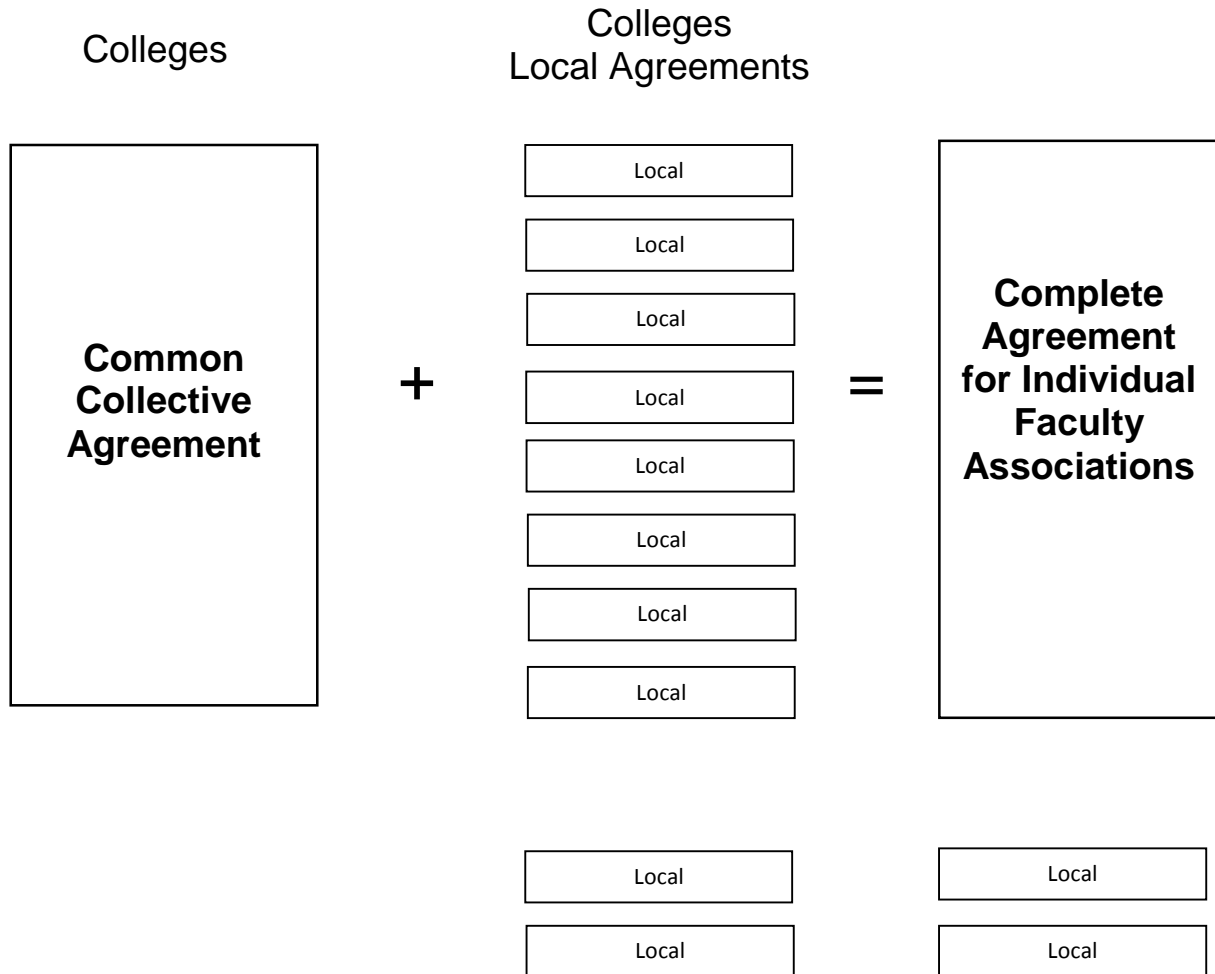
### EMPLOYERS' BARGAINING STRUCTURE



In the Health sector unions were grouped into bargaining associations. However, given independent character of the institutions in the post-secondary sector, this consolidation didn't develop the same way.

By 1995, the government again announced large cuts in the transfer payments for post-secondary education. Eight of CIEA's unions took strike votes and planned coordinated job actions to resolve bargaining impasses. As a result, the sector's first common bargaining table was established to conduct "Multi-Institutional Discussions (MID)." With the assistance of arbitrator James Dorsey, the first common agreement in the sector for the period of 1996 – 1998 was established. Like all subsequent common agreements, the 1996 agreement involved a common table as part of two-tier bargaining, with some issues bargained at the common table and all other issues bargained at local tables, together forming the whole collective agreement for the respective associations. The issues bargained at the common table were overarching provisions such as wages, health and welfare benefits, employment security and regularization, and union and parental leave, anti-harassment and discrimination, employer-union relations and copyright and intellectual property.

## FPSE BARGAINING STRUCTURE FOR COLLEGES AND FOR UNIVERSITIES



### Universities

#### Individual Local Agreements

- Some informed by the Common Collective Agreement
- Some traditional University Agreements



At its 2004 Annual General Meeting CIEA once again regrouped and the Federation of Post-Secondary Educators of BC was created, giving post-secondary educators a stronger voice in its efforts to lobby government and negotiate fair settlements. This name change reflected the organization's growing and evolving membership, which included university colleges and teaching-intensive universities. FPSE now has 19 locals who are independently certified unions. The FPSE constitution outlines its mission: to promote the objectives of post-secondary education, to improve the economic and professional welfare of post-secondary educators, foster effective communication and cooperation within BC's post-secondary education system, work with allies concerned with post-secondary education, act as the voice for member associations, while supporting the authority/voice of individual locals, seek representation on bodies dealing with policies affecting BC's post-secondary education system, encourage inter-institutional cooperation, rather than competition, among faculty and faculty associations, provide support to achieve satisfactory resolution of disputes, and assist member associations in the relations with employers, including with their right to bargain collectively.

As labour relations legislation evolved over time, so too did the coordination abilities and strength of the faculty associations in collective bargaining. On the union side, it was a 35-year evolution growing from individual societies to certified unions in a federated structure, allowing for the pooling of resources to achieve common social and economic goals and protect the common good. A

significant degree of standardization of provisions in the college sector and some of the universities has been achieved.

On the employer's side, and the government's, this same time frame saw provincial governments of various stripes come and go, each with their own ideologies and fiscal imperatives. And the centralized negotiations model has served each of them well.

There are a couple of models in play: One is the voluntary multi-party model where "coalitions of the willing" of unions and employers come together to hash out the overarching issues affecting a sector – the model used in our college and special purpose teaching university system. And the other is the statutory multi-party model, where bargaining units and bargaining associations comprised of numbers of unions are established through legislation. The health care, K-12 and social services sectors are legislated bargaining groups. For example, in health care, the Facilities Bargaining Association comprises four health care unions and seven industrial unions.

The last decade has seen aggressive actions on the part of the government for tighter and tighter control. The Post-Secondary Employers' Association, requires educational institutions under its jurisdiction to submit bargaining plans, proposals and recommended settlements to it for approval at every step, and will not fund a collective agreement renewals negotiated by colleges or universities under its jurisdiction which it does not approve. It walks softly and carries a big stick.

The government has moved from tightening its control over wage negotiations, to tightening its control over a range of expanded items,

include wages and benefits, other monetary items, and most recently to expanding management rights in areas traditionally considered to be collegial governance territory. Traditional labour-management decision-making constructs and norms are now abutting true collegial governance across the colleges and universities, as these institutions move closer to corporatization of education.

Further, in each round of bargaining, the government sets a formal “mandate,” which it characterizes as the “sandbox” in which public sector employers are able to bargain. In 2010 the mandate was defined as “net zero,” a euphemism for mine your collective agreements if you want anything that costs money. In 2012 the mandate was defined as the “cooperative gains” mandate, another euphemism for “if your institution saves enough money you can have some of that pot for what you need if you can strike the ‘right’ deal.” And in 2014 the mandate was called the “Economic Stability Mandate.” This mandate provided a modest fixed wage increase with a variable increase on wage and wage-impacted benefits tied to BC’s gross domestic product (GDP) when forecasted growth of the GDP is exceeded. For this last fiscal cycle, the variable increase totalled a little less than half a percent.

The government set fixed wage increases of 5.5% over five years. They forbade employers to weaken any existing material management rights and encouraged them to enhance these management rights, whether bargaining as multi or single employers; they instructed employers to only develop proposals for employment security provisions that did not impede conservative governmental policy or service delivery objectives; they did not permit employers to agree to

new binding interest arbitration provisions, even to get through a bargaining impasse; and any cost increases in any areas, including increases to hours of work, had to be found in cost savings somewhere else in the collective agreement and receive approval from the Minister of Finance.

This round, virtually all the unions in the public sector settled for the 5.5 over 5 mandate, with slight variations in other provisions, depending on the sector and the collective agreement.

These centralized models clearly have upsides and downsides. Obviously the larger the union group or groupings of unions, the more power faculty have over their bargaining – the old adage, there is power in numbers is a truism. It allows for greater systemic fairness and equity. Pooled resources create enhanced levels of value (example system-wide pension plans and benefit plans) It is efficient in terms of time, effort and cost. The other side of the coin is, the more centralized the bargaining model covering larger numbers of employers, the more control our Ministry of Finance has over the costs of contract renewals and the more control our Ministry of Advanced Education can exercise over the administration of the post-secondary sector.

So, multi-party negotiations increases leverage on both sides of the table. But our experience is it can only be meaningfully sustained when the benefits for the union side are comparable in value (I use the term “value” in its broadest sense) to the employers’ side. It will not provide industrial or economic stability if the playing field is tilted too far in favour of employers.

Having said that, everybody benefits from a stable and healthy economy where the wealth is shared in an equitable manner. Our collective bargaining regime forms an important part of what we call in Canada our social safety net. It is part of our broad society's social contract. Our Charter of Rights and Freedoms accords all Canadian citizens in all provinces and territories the constitutional right to freedom of association. And as such, the right to bargain collectively and strike are considered essential parts of that constitutional freedom of association. (Refer to Lancaster House handout.)

However, this is not a panacea, because the Supreme Court of Canada is also of the view that, while the freedom of association protects the process of collective bargaining, it does not protect the outcomes, and therefore does not necessarily save the terms of a collective agreement from provincial or territorial legislated changes. So, what we win at the bargaining table, can, in certain circumstances, be taken away through legislation.

Having said all that, I personally am of the belief that we are better off bargaining on a scale broader than one union-one employer. In the long run, it allows the unions to fight for systemic change and progress, to work with the broader public sector to influence government policy and funding and to engage generally in the broader political agenda.

Thank you.