



As we come to the end of 2016, we must reflect on this very difficult year for the members of UTE. We finished our contract fight after four long years and in finishing this, we all decided to stand up, not to give up but take responsibility for the choices we made. Members voted to stand up and reject an offer from the employer which ultimately resulted in a better contract. We were not willing to put our negotiations in someone else's hands (me too clause). We have now signed off on our new collective agreement, which has already expired, and we will start negotiations again in 2017. Our determination during the last round has shown the Treasury Board and the CRA that we will stand up for our beliefs and demand to be treated with the respect and dignity that all of you deserve. We will not give up our hard-earned benefits, not now and not in the future. Everyone must be diligent and continue to support not just the union, but yourselves as employees and union members in the activities that will be coming up in the next year.

We must start a political campaign to have the liberal government repeal the legislation that put us back under Treasury Board, as this was the main reason that our negotiations took so long. We should go back to directly negotiating with the CRA. History has shown how successful this can be with contracts negotiated before the expiry of the current agreement and settlements that meet the needs of both sides in a positive way.

I want to thank all of you for your support, questions and suggestions over the last year. I must take this time to also thank the Locals, National Executive and UTE staff for all their hard work and unbelievable hours they have put in for the membership. Being the National President during this time has been both difficult and rewarding. I must say how proud I was to be national president during this round of negotiations.

Merry Christmas and Happy New Year to all.

Bob Campbell
National President



**SI VOUS PRÉFÉREZ RECEVOIR CETTE PUBLICATION EN FRANÇAIS,
VEUILLEZ VOUS ADRESSER À VOTRE PRÉSIDENT- E DE SECTION LOCALE**

OUR NEW COLLECTIVE AGREEMENT

As you are aware on October 25, 2016 UTE/PSAC signed a new collective agreement with CRA. There were several improvements and changes to our collective agreement. In this article, we will highlight some of these changes recognizing that not every member attended a ratification vote meeting or has read all the information relating to the new collective agreement. In respect to the clauses we are highlighting these changes came into effect on the date of signing.

Article 47 bereavement leave with pay

Members are now entitled to seven [7] consecutive calendar days for the purposes of bereavement leave when a member of the employee's family dies. This new provision removes the complications that sometimes occurred when a death occurred mid-week. Member sometimes found themselves in situations where they were granted Thursday through Monday as consecutive calendar days. Under the new provision, in this scenario, the member would be granted bereavement leave from Thursday through the following Wednesday, an entire week.

The definition of family for the purposes of this clause can be found in article 2 of the collective agreement.

Article 43 leave with pay for family related responsibilities

There have been two significant changes to this clause. It should be noted that the amount of leave available under this article is still a maximum of 45 hours in a fiscal year. However, access to this leave has been expanded.

In the previous collective agreement under article 43.02 [G] leave was available in circumstances where there was an elementary school closure. The new provision provides leave in situations where there is a scheduled or unexpected school closure for children aged fourteen (14) and under, or to children over the age of fourteen (14) who have special needs.

The second addition to the collective agreement is an expansion in the types of activities that qualify for leave under this clause.

- Leave to attend school functions - This includes activities such as school concerts or other such functions and meetings with school officials.
- Leave for appointments with legal or paralegal representatives, financial or other professional representatives. This includes any meetings the member is going to attend with any of the above noted representatives on any of their personal matters.

In respect to the leave granted in the above-noted examples there is a maximum allowable in the fiscal year of 7.5 hours. This amount is included in the total leave available under family related leave of 45 hours.

We have been advised by the employer that in the very near future, managers will be provided guidance regarding the application of this new leave provisions and amendments.

Article 34 vacation leave with pay

Our collective agreement now includes a new article 34.18 that provides each employee with a one-



time credit of 37.5 hours of vacation leave to any employee with at least two years of service. For the calculation of two years of service this is all service within the Public Service whether continuous or discontinuous in nature.

This leave provision will not only apply to current employees of CRA who fall under the UTE/PSAC collective agreement but to new employees as well once they achieve the two-year service threshold.

While considered vacation leave for the purposes of being able to take it in increments of 15 minutes or greater, in other ways it is treated differently. Unlike regular vacation leave this leave is **not** included in the calculation of the vacation carryover limit of 262.5 hours.

For term employees, if this leave is not taken prior to the end of a period of employment (end of term) it will be paid out in accordance to article 34.13. This same provision will apply to any employee leaving CRA for any reason including retirement.

Gary Esslinger
Chair, Communications Committee

ADDITIONAL PAY CHEQUE DETAILS

There is a new page on Employee Self-Service (ESS), under *My Compensation*, called *Display Additional Pay Cheque Details*, that you can use to explain the payments that appear on your pay cheque, including additional hours, overtime, meal allowances, commuting assistance, etc. The last three months of cheques are viewable. This page contains the following details on additional earnings:

- **Additional details**-including description, dates, hours and hourly rate (if applicable) and amounts;
- **Schedule based pay adjustments**- such as compressed; and
- **Events processed on your pay**- description and dates of actions that Compensation processed to your pay.

AD HOC PHOENIX COMMITTEE



For some time now, we have been hearing complaints from members concerning their pay, leave and other types of benefits and compensation as a result of the Phoenix Pay System and its interaction, or lack thereof, with the CRA's Corporate Administration System (CAS). These concerns were reiterated at a conference of Local Presidents held in Ottawa in September 2016.

Notwithstanding the fact that the PSAC has its own Phoenix Committee, the UTE National President established an ad hoc committee to identify the issues and concerns and to attempt to identify potential solutions or recommendations to address these issues, specifically as they relate to our members. This ad hoc committee held its first meeting on November 2 and 3, 2016 and we are currently attempting to schedule a meeting with CRA's Corporate Compensation to discuss these matters. Further information will be shared as it becomes available.

THE BENEFITS OF EXERCISE AND MENTAL HEALTH

Throughout history many societies, ancient and modern, have used exercise as a means of preventing disease, and promoting health and well-being, but when you are suffering from anxiety or depression, exercise often seems like the last thing you want to do. However once you get motivated, exercise can make a big difference.

Exercise helps prevent and improve a number of health problems, including high blood pressure, diabetes and arthritis. Research on anxiety, depression and exercise shows that the psychological and physical benefits of exercise can also help reduce anxiety and improve mood.

The links between anxiety, depression and exercise aren't entirely clear — but working out and other forms of physical activity can definitely ease symptoms of anxiety or depression and make you feel better. Exercise may also help keep anxiety and depression from coming back once you're feeling better.

Regular exercise helps ease depression in a number of ways, which include:

- **Releasing feel-good brain chemicals** that may ease depression (neurotransmitters, endorphins and endocannabinoids)
- **Reducing immune system chemicals** that can worsen depression
- **Increasing body temperature**, which may have calming effects

Regular exercise has many psychological and emotional benefits, too. It can help you:

- **Gain confidence.** Meeting exercise goals or challenges, even small ones, can boost your self-confidence. Getting in shape can also make you feel better about your appearance.
- **Take your mind off worries.** Exercise is a distraction that can get you away from the cycle of negative thoughts that feed anxiety and depression.
- **Get more social interaction.** Exercise and physical activity may give you the chance to meet and socialize with others. Just exchanging a friendly smile or greeting as you walk around your neighborhood can help your mood.
- **Cope in a healthy way.** Doing something positive to manage anxiety or depression is a healthy coping strategy. Trying to feel better by drinking alcohol, dwelling on how badly you feel, or hoping anxiety or depression will go away on its own can lead to worsening symptoms.

The word "exercise" may make you think of running laps around the gym. But exercise includes a wide range of activities that boost your activity level to help you feel better.

Certainly running, lifting weights, playing basketball and other fitness activities that get your heart pumping can help. But so can physical activity such as gardening, washing your car, walking around the block or engaging in other less intense activities. Any physical activity that gets you off the couch and moving can help improve your mood.

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You don't have to do all your exercise or other physical activity at once. Broaden how you think of exercise and find ways to add small amounts of physical activity throughout your day. For example, take the stairs instead of the elevator. Park a little farther away from work to fit in a short walk. Or, if you live close to your job, consider biking to work.

Doing 30 minutes or more of exercise a day for three to five days a week may significantly improve depression symptoms. But smaller amounts of physical activity — as little as 10 to 15 minutes at a time — may make a difference too. It may take less time exercising to improve your mood when you do more-vigorous activities, such as running or bicycling.



Starting and sticking with an exercise routine or regular physical activity can be a challenge.

These steps can help:

- **Identify what you enjoy doing.** Figure out what type of physical activities you're most likely to do, and think about when and how you'd be most likely to follow through. For instance, would you be more likely to do some gardening in the evening, start your day with a jog, or go for a bike ride or play basketball with your children after school? Do what you enjoy to help you stick with it.
- **Get your mental health provider's support.** Talk to your doctor or other mental health provider for guidance and support. Discuss an exercise program or physical activity routine and how it fits into your overall treatment plan.
- **Set reasonable goals.** Your mission doesn't have to be walking for an hour five days a week. Think realistically about what you may be able to do and begin gradually. Tailor your plan to your own needs and abilities rather than trying to meet unrealistic guidelines that you're unlikely to meet.
- **Try not to think of exercise or physical activity as a chore.** If exercise is just another "should" in your life that you don't think you're living up to, you'll associate it with failure. Rather, look at your exercise or physical activity schedule the same way you look at your therapy sessions or medication — as one of the tools to help you get better.
- **Analyze your barriers.** Figure out what's stopping you from being physically active or exercising. If you feel self-conscious, for instance, you may want to exercise at home. If you stick to goals better with a companion, find a friend to work out with or who enjoys the same physical

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activities that you do. If you don't have money to spend on exercise gear, do something that's cost-free, such as regular walking. If you think about what's stopping you from being physically active or exercising, you can probably find an alternative solution.

Whatever you do, give yourself credit for every step in the right direction, no matter how small. Always remember you are capable of amazing things!

Kim Koch
Northern BC & Yukon Local

PERFORMANCE IMPROVEMENT PLANS

In the September 2015 edition of Union News, we provided you information on performance assessments at the potential impact of receiving a rating of either a one (1) [does not meet] or a rating two (2) [mostly meets]. In this article, it mentioned potential impacts resulting from these ratings relating to one's ability to apply for promotional opportunities either on a temporary or permanent basis.

The employer's policy on performance management also includes for the development of Performance Improvement Plans (PIP) for all employees who receive a performance assessment rating of either one or two.

The PIP serves two purposes; firstly, it should be a plan developed by management that will provide to employees an outline of any additional tools, training or strategic plans needed to be put in place to assist the employee to improve their performance to a satisfactory level. Development of this plan must include employee input to ensure it is meeting their needs and reflects the assistance that they believe is necessary to succeed.

The second purpose of the PIP is that it can ultimately become part of the documentation that the employer may use in support of any measures that could result in an employee's demotion, termination or ineligibility for rehire.

For these reasons, it is critically important that anyone who is in the position to be placed on a performance improvement plan contact their local executive for assistance in ensuring that any plan developed is done as a cooperative and collaborative effort between employee and employer. As noted above, this needs to reflect the needs of both parties with the goal of assisting the employee to help improve their performance.

To ensure that locals and local executives have the tools they require to help you, the Union of Taxation Employees has recently issued a bulletin to locals. This bulletin provides suggestions and tools that will be necessary for locals to assist you when dealing with the development of a PIP.

We encourage you to seek the assistance of the local executive when facing these situations, your ability to apply for promotional opportunities or to you retain your employment at its current level depends on it.

Lastly, the employer's policy clearly states that in ANY situation where an employee is a level 1 or 2 they MUST have a PIP developed. Employees need to insist that a plan is developed in situations to help them both achieve success and protect themselves.

Gary Esslinger
Chair, Communications Committee

DUTY TO ACCOMMODATE

The duty to accommodate is a fundamental principle of Canadian human rights. Initially recognized in the case of *British Columbia (Public Service Employee Relations Commission) v. BCGSEU*, [1999] 3 S.C.R. 3 (commonly referred to as the Meiorin case), Madam Justice Beverley McLachlin concluded that the employee must establish a prima facie case of discrimination. Once completed, the burden of proof is transferred to the employer to establish that the discrimination is based on a bona fide occupational requirement. Subsequent decisions clarified and developed the duty to accommodate. Professor Michael Lynk wrote in part:

1. Accommodation measures must be taken unless it is impossible to do so without imposing undue hardship and;
2. The undue hardship threshold is high and;
3. Employers and unions must be sensitive to the various ways that individual capabilities may be accommodated and;
4. Workplace standards that unintentionally distinguish among employees on a protected human rights ground may be struck down or modified and;
5. Exceptions are permitted only where they are reasonably necessary to the achievement of legitimate business-related objectives.

From a union perspective and to determine if an employee requires accommodation, three (3) procedures must be followed by said employee and her/his union representative:

1. Obtain a medical certificate from the employee's treating physician that explicitly reads of a medical **diagnosis** without disclosing confidential information such as a course of treatment and;
2. The medical certificate must accurately **detail** the **accommodation requirement(s)** of the employee;
3. Provide the medical certificate to the **employer**.

The medical certificate must clarify ambiguities that may direct the employer to seek a medical assessment from *Health Canada* (HC). In the case of *Attorney General of Canada v. Chander P. Grover*, 2007 FC 28, Mr. Justice Shore wrote in part at paragraph sixty-four (64): "The foundational principle is that employees have a strong right to privacy with respect to their bodily integrity and a medical practitioner; therefore, a trespass is committed if an employee is examined against his or her will. Consequently, the employer cannot order an employee to submit to a medical examination by a doctor chosen by the employer unless there is some express contractual obligation or statutory authority." Consequently, the employer must first seek clarification from the employee's treating physician and only if the employee consents, seek the medical assessment from HC. In an effort to educate yourself, it is imperative to remain informed of recent and past cases related to the duty to accommodate. Public Service Labour Relations Board decisions, such as the case of *Lloyd v. Canada Revenue Agency*, 2009 PSLRB 15, are an excellent source of jurisprudence. Moreover, your local union representative will be able to provide you with guidance, valuable information and resources.

Note that the above provides a synopsis of the duty to accommodate. Open communication with management via your local union representative is the first step to resolving accommodation issues.

The Supreme Court of Canada has stated that "The search for accommodation is a multi-party inquiry" (Central Okanagan School District No. 23 v. Renaud, [1992] 2 SCR 970). This notion is reflected in the CRA's own Procedures on the Duty to Accommodate: "The accommodation process is a shared responsibility, balanced by co-operative multi-stakeholder engagement and its success requires the collaboration of employees, managers and unions. Unions are expected to take an active and supportive role as partners in the accommodation process."

Therefore, when Management refuses to consult with a member and/or the Union regarding an accommodation, Management must be reminded of its obligation to do so under both the law and its own Procedures.

Also, the aforementioned three (3) procedures must be respected prior to filing a grievance. Further information can be obtained via the following Web link:

<http://psacunion.ca/duty-accommodate-guide>

UTE Labour Relations Officers

DID YOU KNOW?

Perceived Disabilities and Discrimination

What is discrimination on the basis of a perceived disability?

Discrimination on the basis of a perceived disability occurs when someone who does not have an actual physical or mental limitation, is discriminated against based solely on societal perceptions of one's limitations, such as prejudices and stereotypes.

Such a case was recently heard by the Canadian Human Rights Tribunal. The decision of *Turner v. Canada Border Services Agency (CBSA)* involved an employee, whom – by reason of his age, race, colour and a perceived disability of obesity – CBSA “wilfully deprived of employment opportunities,” the Tribunal found.

Mr. Turner filed a complaint with the Canadian Human Rights Commission after he was screened out of two separate competitions for indeterminate positions with the CBSA, even though he had worked for the agency for several years and had excellent performance reviews.

During proceedings before the Tribunal, the PSAC was able to uncover emails that were sent to the hiring committee that implied that Mr. Turner was lazy – this appeared to be linked to the racist stereotype of the “lazy black man.” The Tribunal agreed, saying that “the interview process was a pretext, it was a process that subjected Mr. Turner to discrimination by reason of a perceived disability of obesity, his race and age.”

How does this kind of discrimination affect me?

An important lesson to take away from this decision and Mr. Turner's personal experience is that even though you may not suffer from an actual physical or mental disability, but where there exists evidence that you are perceived as such **and** that you have been discriminated against in the workplace based on that perception, you may:

- Grieve under Article 19 of our *Collective Agreement* on the basis of Disability; and
- File a complaint with the Canadian Human Rights Commission under the protected ground of Disability, per section 3 of the *Canadian Human Rights Act*.

For more information on the *Turner* decision and its impact on Canadian human rights law, please refer to this article from the PSAC: <http://psacunion.ca/human-rights-tribunal-agrees-cbsa-discriminated-against-job-applicant>

To read the *Turner* decision, please go to the following link: <http://canlii.ca/t/q6435>

Mathieu Juneau
Labour Relations Officer

CHANGE OF ADDRESS

Please note that all address changes should be done via e-mail to Louise Dorion (dorionl@ute-sei.org) or via the national web site. If you do not have access to an e-mail, please pass it on (with your PSAC ID) to a local representative or mail it directly to the National Office at 233 Gilmour Street, Suite 800, Ottawa ON K2P 0P2.



POLITICAL ACTION UPDATE



It has been just over one year since the October 19, 2015 General Election where Canadians voted for “*real change*” and were promised “sunny ways.” During this time, the UTE has been active in attempting to engage the new Federal Liberal Government on issues that affect us and keep them to their word. This has included supporting our Bargaining Team in achieving a Collective Agreement, after 4 years of bargaining, that included receiving 1.25% for giving up Severance on Retirement. We are also keeping up to date on proposed changes to sick leave and pensions. The following is an update on current issues.

Phoenix Update

At the time of writing this article, Public Service Procurement Canada (PSPC) are working through all original cases to date, but not at the rate of what they originally expected. As of mid October, they have confirmed that they wouldn't meet the goal of October 31, 2016 to have this all resolved.

51,000 cases, or about 62% of the original backlog has been taken care of, however there has been a huge increase to Priority 2 cases.

PSPC has set up a claims process for members suffering hardship due to non-payment or under payment of salary.

Costs associated with this fiasco are currently at \$50M to the end of fiscal year. This amount doesn't include claims and compensation.



Bill C-45 “Jobs and Growth Act”



The relevant part of the legislation that refers to CRA collective bargaining is as follows:

“Division 24 of Part 4 amends the Canada Revenue Agency Act to make section 112 of the Public Service Labour Relations Act applicable to the Canada Revenue Agency. That section makes entering into a collective agreement subject to the Governor in Council’s approval. The Division also amends the Canada Revenue Agency Act to require that the Agency have its negotiating mandate approved by the President of the Treasury Board and to require that it consult the President of the Treasury Board before determining certain other terms and conditions of employment for its employees.”

From 1999 to 2012, when the CRA enjoyed a stand-alone bargaining process, we were able to successfully negotiate two collective agreements prior to their expiration dates. We believe that this

was due to neither interference from Treasury Board, nor was Treasury Board approval sought. We contend that returning the CRA back to its independent bargaining status would restore a sound bargaining process with the employer that would produced harmonious conclusions to agreements and make for improved labour relations.

We are in the process of preparing a lobbying kit to include speakers note for both Bill C-45 and Phoenix.

For your reference, the UTE Campaign page is <https://www.ute-sei.org/en/campaigns> where you can find out who your MP is in your riding. We strongly suggest that you contact your MP and continue lobbying around the Phoenix issues and Bill C-45.

Bill C-10 Challenge (aka 1% Roll-back)

In mid-August, the Ontario Court of Appeal upheld the Ontario Superior Court decision that Bill C-10, the *Expenditure Restraint Act*, did not violate our *Charter* rights. Bill C-10, passed by the former Conservative government in 2009, rolled back negotiated wage increases for our members for years 2011 and 2012. In mid-October, the PSAC applied for leave to appeal this decision to the Supreme Court of Canada. According to the PSAC, our chances of being granted leave are 50-50. The main obstacle to not being granted leave to challenge for us is the fact that the Supreme Court has already heard the challenge of the Expenditure Restraint Act that was filed by the RCMP. As of the time of writing this article, there has been no decision received from the Supreme Court as to whether our appeal request has been accepted.



In Solidarity,

Political Action Committee