

Update on Employee Status and Collective Bargaining Postdoctoral Associations of Alberta

Dear Alberta Postdocs,

On May 4th of this year, the Alberta Government passed [Bill 7, An Act to Enhance Post-secondary Academic Bargaining](#). This important piece of legislation included revisions to the Labour Relations Code, the Post-secondary Learning Act (PSLA), and the Public Service Employee Relations Act, and was largely designed to bring the Province into compliance with a recent Supreme Court ruling regarding the essential nature of the right to strike in labour relations negotiations.

As you may know, Bill 7 also signaled a major shift in provincial postdoctoral policy, as it revised the Labour Relations Code to recognize postdocs as employees and the PSLA to establish postdoctoral associations (PDAs) as incorporated entities that serve as the collective bargaining units for postdocs at each post-secondary institution.

As a postdoc in Alberta, you're probably wondering what that means for you, and you may have already heard rumors about how the change in employee status and the unionization of postdocs will affect you and future postdocs. We are writing today to address that question as best we can, to minimize misinformation and speculation regarding the likely effects of this legislation, and to assure the postdoc community that the changes implemented by Bill 7 are in the best interest of the majority of postdocs. Indeed, those changes were specifically requested by the Postdoctoral Association of the University of Calgary (PDAC), the University of Alberta Postdoctoral Fellows Association (UofA PDFA), and the University of Lethbridge Postdoctoral Fellows Association (ULPA), working together to advocate for change based on the input of hundreds of Alberta postdocs collected on multiple local and national surveys. For more information about how and why your associations advocated for these changes please see the related posts available on the Canadian Association of Postdoctoral Scholars (CAPS/ACSP) website, which can be accessed [here](#).

The implementation of Bill 7

The implementation of Bill 7 basically involves two separate but related processes: 1) the transition of postdocs to employee status, and 2) the establishment of PDAs as incorporated collective bargaining units.

The transition of postdocs to employee status

Despite the fact that the wording of Bill 7 included nearly all of the common titles used for postdocs in Alberta, the question of which specific groups of postdocs will be recognized as employees remains open at this time. The initial decision on this matter falls to the individual institutions, which are responsible for changing the categorization of each postdoc from trainee to employee. The institutions will likely choose to follow the precedence set by other universities in Canada where postdocs have unionized, so they will likely argue that any postdoc who holds a scholarship / fellowship from an external funding agency (e.g., the tri-council) should be excluded from employee status on the grounds that the universities cannot be the "employer" of any person whose salary is paid directly by an external

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agency. Thus, it is likely that the changes brought about by Bill 7 will only apply to postdocs paid off their supervisors grants and via internal scholarships / fellowships, at least initially. If the institutions choose this approach, then the PDAs will need to ask Alberta Labour to rule on the employment status of any postdocs that we feel are being unfairly excluded from our associations. This is unlikely to occur until a few months from now, when the PDAs have completed the transition into collective bargaining units.

If you are deemed an employee you will automatically be included in the Employment Insurance (EI) and Canada Pension Plan (CPP) programs. EI is an insurance program that provides support for paid leave from work under certain circumstances through a variety of [benefit programs](#) including maternity and parental benefits, sickness benefits, bereavement benefits, compassionate care benefits, and special benefits for parents of critically ill children, as well 'regular' benefits that provide coverage for individuals who lose their job. CPP is a [public pension program](#) that includes both employee and employer contributions and can be collected around the age of 65 years regardless of whether an individual still lives in Canada. Both employees and employers are required to pay into the EI and CPP programs. At present, the rates for employee premiums are 1.63% of gross annual income up to a maximum of \$836.19 per year for EI and 4.95% of gross income earned (after the first \$3,500) to a maximum of \$2,564.10 for CPP. The rate for annual employer premiums is the same as that for employees in the case of CPP and 1.4 times the employee premium to an annual maximum of \$1170.67 for EI. The cost of your individual premiums for EI and CPP can be calculated using this handy online tool [CPP/EI calculator](#).

At present, it remains unclear which postdocs will be granted employee status at the University of Calgary and the University of Lethbridge, as those institutions have yet to reach a decision regarding the how best to implement the changes brought about by Bill 7. In contrast, the University of Alberta has indicated that they plan to implement employee status for all internally funded postdocs, likely in October 2017. It is important to point out here, that the latter move has little to do with the passage of Bill 7, and is instead the result of a recent ruling by the Canada Revenue Agency (CRA) regarding the employment status of a former University of Alberta postdoc who filed for an EI / CPP ruling in April 2017. This change will not prevent the UofA PDFA from arguing that externally funded postdocs should also be considered employees and provided bargaining rights via inclusion in their association.

The establishment of PDAs as incorporated collective bargaining units

At present, PDAC, the UofA PDFA, and ULPA are all working diligently with representatives from Alberta Advanced Education to transition their respective PDAs into incorporated collective bargaining units. That process involves a number of inter-related steps that can be summarized as follows:

- 1) Each PDA must revise their constitution and bylaws to meet the requirements for collective bargaining units set out in the new PSLA. The Ministry provides support and feedback during this process to ensure adherence to the requirements laid out in the revisions to the PSLA.
- 2) Each university must provide their respective PDA with a list of all postdocs working at the institution. This list serves as the membership list for that PDA. The PDAs vet those lists to

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ensure that all postdocs are on them and have the opportunity to argue for inclusion of excluded postdocs or groups of postdocs. If a PDA cannot reach an agreement with their institution regarding the membership list the matter will need to be decided by Alberta Labour. That process will be initiated as soon as the PDAs are established as collective bargaining units.

- 3) Once the membership list is approved by the PDA, the constitution and bylaws of the PDA must be ratified by the postdocs on that list.
- 4) Once the membership endorses the constitution and bylaws of a given PDA the province will incorporate that association, which will effectively create a new entity that replaces the existing PDA.
- 5) Following incorporation, the new PDAs must immediately hold their first elections.
- 6) The newly elected PDAs will immediately set to work negotiating their first collective agreements with their respective institutions.

At present, step 1 and 2 are underway, with the PDAs working together with the province to craft new constitutions and bylaws, and the institutions consulting with their members and the province to establish appropriate lists of postdocs to provide to the respective PDAs.

While the timing of the individual steps remains unclear at this point, the entire process must be completed by June 2018, within 1 year of the passing of Bill 7. As this process unfolds, we will provide updates to the postdoc community via local channels as well as the CAPS/ACSP website (www.caps-acsp.ca) and we encourage all postdocs to pay close attention to any communications from their institutions regarding employment status changes as well.

Why the passage of Bill 7 is good news for Alberta postdocs

The passage of Bill 7 was a significant milestone for postdocs working in Alberta, but also represents a landmark in the history of Canadian postdoctoral policy, as the recognition and rights afforded to postdocs by this important piece of legislation have never been granted to postdocs in any province in the absence of a labour relations board ruling or court order to that effect. While the full impact of Bill 7 has yet to be realized, it is clear that this legislation will improve the lives of a portion of Alberta's postdocs by providing access to much needed protections and benefits provided by EI and CPP, and that it will also empower postdocs by giving us the opportunity to bargain for improved working conditions as a group. The latter is perhaps the single most important outcome of this legislation, as it ensures that postdocs will have a real voice in our own labour relations in the future. The importance of that development cannot be overstated, as the lack of power to negotiate as a group has been the single biggest hurdle that has limited the ability of PDAs to bring about meaningful improvements in postdoc policy in Alberta over the course of the last 20 years.

The changes brought about by Bill 7 will also benefit international postdocs, as the categorization as employees should bring with it the recognition of postdoc work as "skilled work experience" for the purposes of applying for permanent residence through federal programs as well as the Alberta

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Immigrant Nomination Program. In addition, the benefits provided by EI apply to postdocs on work permits, although eligibility and the duration of benefits may be negatively impacted by time remaining on one's work permit. With respect to the latter, it is interesting to note that international postdocs can even apply for support due to job-loss despite the fact that a work permit is usually only valid for a current employer. The duration of support available in this situation is brief (~1 month), but one can collect regular benefits for that period while searching for a new employer to apply for a work permit with. Along similar lines, it is important to note that access to CPP is also beneficial for international postdocs, as one can collect CPP during retirement regardless of what country you're living in at the time as long as you provide the CRA with an up-to-date address and you apply for your pension and follow all the applicable guidelines. The amount of pension one can receive is based on contributions as well as the number of years one contributed, so those who only pay in to CPP for a couple of years will receive a very small pension, but at least you can take it with you anywhere in the world. For foreign individuals who intend to leave Canada after their postdoc, an alternative option is available provided your country of origin has a similar social security program and an international social security agreement with Canada. These agreements allow one to apply their CPP payments towards the social security program in their country of origin should they choose to do so, and the full list of countries that have such agreements with Canada can be found [here](#).

Is there a downside?

Based on a wealth of survey data and input from individual postdocs we are confident that most postdocs will view access to EI and CPP as a major improvement in postdoc policy in Alberta, however, there are those who will struggle to cover the added, unexpected cost of EI and CPP employee premiums on their current salary. Unfortunately, that cannot be avoided, as it is not possible for employees to opt out of EI and CPP, so once a person's position is deemed employment they will automatically be enrolled in those programs and begin to be charged premiums. We hope to fully resolve this issue during the negotiations for the individual collective bargaining agreements, and in light of this potential issue we strongly encourage postdocs to calculate their employee premiums for EI and CPP ahead of time ([CPP/EI calculator](#)) and re-examine their finances and personal budget to take these costs into consideration. For now we would recommend that all postdocs do this, regardless of their source of income, as it remains unclear precisely which individuals will become employees. We assure you that we will work to resolve this issue as quickly as possible and we encourage any postdocs who are adversely affected by a change in employment status to inform their local PDA.

Concluding statement

At present there are many unknowns regarding the outcome of the passage of Bill 7, as the process of implementation is still in the very early stages and many key questions remain to be answered.

What we know for certain at this point is the following:

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- 1) In the coming months, at least a portion of the postdocs working at the Universities of Alberta, Calgary, and Lethbridge will become employees. Those individual will have access to EI and CPP and will begin paying into those programs immediately.
- 2) The coming months will see the incorporation of the PDAs at those institutions and each of those associations will immediately elect a new executive which will be responsible for negotiating their first collective bargaining agreement.
- 3) The PDAs will be responsible for collective bargaining on behalf of their members for the next 5 years, as Bill 7 also included a moratorium on changing bargaining units for that period. **To be clear, this means that postdocs are expressly forbidden from joining an existing union (e.g., AUPE) for a period of 5 years.**

The true effects of the implementation of Bill 7 at each institution will not be clear until the first collective agreements are finalized. As such, anything you hear about the final cost of postdocs unionizing or the long-term effects of these changes on research and postdoc employment in Alberta is likely either based on speculation or misinformation at this point.

If you are likely to experience financial hardship due to these changes we hope you can find some solace in the fact that we have secured a future in which postdocs have access to essential protections and benefits and the power to negotiate on their own behalf. While the initial implementation of the changes brought about by Bill 7 may be a painful process for some, in the end these changes will undoubtedly benefit the postdoc community as a whole and we are confident that improving the lives of postdocs will pay off in terms of enhanced recruitment, productivity, and innovation in the academic sector in Alberta long-term.

If you have any questions or concerns, please contact your local PDA – we will do our best to respond to questions in a timely manner. Finally, implementing these changes will require a lot of time and effort on the part of your PDAs. All of our associations will be looking for new executive members and volunteers to help in this process, so please let us know if you would like to be involved.

In solidarity,

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