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Our File No.: 300-17-013

October 26, 2017

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NorQuest College Faculty
Association
10215 108 Street N.W.
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Attention: Tannis Brown
VIA FAX

Attention: Gabriel Joshee-Arnal
VIA FAX

Attention: Leslie Sayer
VIA EMAIL

NorQuest College
10215 108 Street N.W.
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The Alberta Union of Provincial
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Attention: Laurel Evans
VIA FAX

Attention: Leslie
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Petrie/Larry Dawson
VIA FAX

POSTED	
GE-07608 File No.	7 Support Doc. No.
10/26/17 Date	AF. Posted By

RE: An Application brought by NorQuest College Faculty Association affecting NorQuest College and the Alberta Union of Provincial Employees

This letter is on behalf of Norquest College Faculty Association ("the Association") in response to the letter from counsel for Norquest College (the "College"), dated October 10, 2017, requesting particulars regarding the Association's complaint of September 22, 2017.

The response of the Association is as follows.

1. In paragraph 7 of the Complaint, the Association alleges that the College attempted to negotiate directly with academic staff members represented by the Association. The College seeks the following particulars:

a. Who was purportedly negotiating with the academic staff members on behalf of the College?

Melissa Santoro, Tsitsi Chizengeni, and Kevin Barronik, all of who are Human Resources consultants, negotiated directly with the academic staff members represented by the Association. The Association understands the negotiations were conducted with the full knowledge and at the

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instruction of Terri Kezema, Human Resources Manager, and Laurel Evans, Human Resources Executive Director.

b. Who were the academic staff members involved in the negotiation?

The academic staff members involved in the negotiation were Lori Williamson, Dwight Palen, and Terri Robinson, who were employed as Academic Strategists.

c. When and where did the purported negotiation take place?

The negotiations took place on June 26, 2017 at the College's downtown campus in Edmonton, Alberta.

d. What was the subject matter of the purported negotiation?

The College attempted to negotiate terms regarding the payment of a Separation Allowance payable to the academic staff members upon the elimination of their positions. Specifically, the College requested the academic staff members to execute a Release as a condition of receiving the Separation Allowance, and negotiated the terms of such Release with the academic staff members directly, without involvement by the Association. The terms of the Release proposed by the College included a waiver by the academic staff members of their right to bring any legal action, including a grievance, regarding their employment with the College, the ability of the College to withhold the Separation Allowance in the event the academic staff member did not sign the Release, and the College could seek repayment of the Separation Allowance if the academic staff member did not comply with the terms of the Release, among others.

The Collective Agreement requires a Separation Allowance to be paid to academic staff members if the College eliminates their position. The Collective Agreement does not require academic staff members to execute a Release in any form as a condition of receiving the Separation Allowance. Further, the Collective Agreement does not describe or contemplate any of the terms in the Release proposed by the College, nor has the College ever negotiated such terms with the Association.

2. In paragraph 17 of the Complaint, the Association alleges that, "past practice of the College suggests it views anyone who offers specialized learning content as academic staff." The College seeks the following particulars:

a. What are the particular past practices that the Association is alleging lead to the aforementioned suggestion?

On or around October 24, 2006, Lori Williamson was reclassified from an Instructional Assistant, which is a non-academic staff position, to an Academic Strategist. Ms. Williamson submitted an updated job description, which the College accepted, that indicated Ms. Williamson offered specialized knowledge and content regarding learning strategies for people with disabilities. The College reclassified Ms. Williamson as an academic staff member based on the updated job description.

Further, Ann Nikolai, Ms. Williamson's manager at the time, Cheryl Whitelaw, the Acting Dean, Learning Resource Services, or both, advised Ms. Williamson that she was being reclassified because she offered specialized learning in the area of disabilities.

In addition, Terri Robinson left her employment with the College as an Instructional Assistant in May, 2005. The College later rehired Ms. Robinson in September, 2008 to perform a similar role, and classified her as an Academic Strategist and an academic staff member.

b. With regard to any such past practices, the College requests particulars regarding who, what, where, when, why and how of those practices.

The particulars of the practices are included in the answer immediately above.

3. In paragraph 18 of the Complaint, the Association alleges that, "one or more Academic Strategists employed on June 26, 2017 had previously been employed by the College as Instructional Assistants, and designated as non-academic staff members within the AUPE bargaining unit." The College seeks the following particulars:

a. Who are the Academic Strategists that are referenced in this paragraph who were purportedly previously employed as Instructional Assistants?

As indicated above, Lori Williamson and Terri Robinson were previously employed as Instructional Assistants and were later reclassified as Academic Strategists.

4. In paragraph 18 of the Complaint, the Association allege that in 2006-2007, the College reclassified one or more Instructional Assistants as Academic Strategists. The College seeks the following particulars:

a. Who are the individuals that the Association alleges were reclassified in 2006-2007?

As indicated above, Lori Williamson was reclassified on October 24, 2006 from an Instructional Assistant to an Academic Strategist. Ms. Robinson was employed as an Instructional Assistant until she left her employment with the College in May, 2005. When the College rehired Ms. Robinson in September, 2008 to perform a similar position, the College classified Ms. Robinson as an Academic Strategist.

b. When did the Association become aware of these alleged reclassifications?

The Association is not aware of whether any representatives of the Association knew of the reclassification of Ms. Williamson in 2006 or of Ms. Robinson in 2008.

5. In paragraph 19 of the Complaint, the Association alleges that the College advised purportedly reclassified Academic Strategists that they were being designated as academic staff because, "the College deemed them as offering specialized content in the area of disability." The College seeks the following particulars:

a. Who from the College made the alleged representation regarding the reason for the designation decision?

As indicated above, Cheryl Whitelaw, Ann Nikolai, or both told Lori Williamson that she was being reclassified because the College deemed her as offering specialized content in the area of disability.

b. Who was or were the Academic Strategists that were allegedly told that they were designated for the above-noted reason?

As indicated above, the representation was made to Lori Williamson.

c. When and where did this purported representation take place?

As indicated above, the representation was made on or around October 24, 2006. The representation was made at the College's downtown campus in Edmonton, Alberta.

In paragraph 34 of the Complaint, the Association refers to the fact that the College has, "historically designated employees as academic staff if they offered specialized content." The College seeks the following particulars:

a. Does the reference to the College's purported historical conduct refer exclusively to the conduct expressly outlined in paragraphs 17 to 19 of the Complaint?

The reference to the College's historical conduct refers exclusively to the conduct outlined in paragraphs 17 to 19 of the Complaint, and as elaborated upon in this response to request for particulars.

b. If there is additional historical conduct that is being relied upon, the College requests particulars regarding the who, what, where, when, why, and how of any such historical conduct.

The particulars of the College's historical conduct are indicated in the answers provided above.

We trust the above satisfies the College's request for particulars.

Yours truly,

CHIVERS CARPENTER



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