

Essential Services Agreement

Between

Keyano College Board of Governors

And

The Canadian Union of Public Employees (CUPE) on behalf of Local 2157

Background:

- a) As a result of *An Act to Implement a Supreme Court Ruling Governing Essential Services (2016)*, which amended PSERA and the Code, the Parties have certain responsibilities as relates to entering into an "Essential Services Agreement";
- b) The Parties have negotiated in good faith and made every reasonable effort to enter into this Agreement.

NOW THEREFORE, the Parties agree as follows:

PART A – GENERAL PROVISIONS

ARTICLE 1 – STRUCTURE OF THIS AGREEMENT

1.1 This Agreement consists of two parts, being:

- a) Part A, which contains general provisions that apply to the entire Agreement;
- b) Part B, which contains schedules with specific provisions related to:
 - i. Essential Services to be maintained by Bargaining Unit Members during a work stoppage;
 - ii. The positions and the number of Bargaining Unit Members within each position, required to perform Essential Services during a work stoppage;
 - iii. Changes, if any, to the terms and conditions of employment that are to apply to Designated Essential Services Workers; and
 - iv. The number of capable and qualified persons able to perform Essential Services during a work stoppage.

ACCEPTED	
[Redacted]	July 12, 2018
Commissioner	Date
EA No. <u>ESA3-2018</u>	

Initials: 

ARTICLE 2 – DEFINITIONS AND INTERPRETATION

2.1 DEFINITIONS

The following terms shall have the following meanings ascribed to them:

- a) **“Agreement”** means this Essential Services Agreement;
- b) **“Bargaining Unit Members”** means those employees who are members of CUPE Local 2157, as defined by certificate 11-78;
- c) **“Capable and Qualified”** refers to management and non-bargaining unit employees who have the skills, abilities and current certifications required to perform essential functions during a work stoppage;
- d) **“Collective Agreement”** means the current, signed collective agreement between the parties that was in effect July 1, 2012, to June 30, 2016;
- e) **“College”** means Keyano College;
- f) **“Code”** means the Labour Relations Code;
- g) **“Commissioner”** means Alberta’s Essential Services Commissioner and has the same meaning as defined in the Code;
- h) **“Designated Essential Services Worker”** means a Bargaining Unit Member who is required to work in accordance with an Essential Services Agreement during those times that the employee is required to perform essential services under the agreement and has the same meaning as defined in the Code;
- i) **“EDHR”** means the Executive Director, Human Resources , or a person designated by the Employer to act in that capacity;
- j) **“Eligibility List”** means the list of the names, position titles, classifications, and contact information for all Bargaining Unit members who have the qualifications and training to perform the Essential Service duties listed in Part B of this Agreement;
- k) **“Emergency”** means a present or imminent event that, in the opinion of the Employer, requires prompt action, co-ordination of action, and/or special regulation of persons or property to:
 - i. Protect the safety and health of the public, which includes the College community; ‘and/or’
 - ii. Limit significant damage to property;
- l) **“Employer”** means the Board of Governors of Keyano College;

Essential Services Agreement
Keyano College Board of Governors

&

The Canadian Union of Public Employees (CUPE) on behalf of Local 2157

- m) **"Essential Services"** are those services that in the opinion of the Employer:
 - i. The interruption of which would endanger the life, personal safety or health of the public; or
 - ii. Are necessary to the maintenance and administration of the rule of law or public security;
- n) **"Lockout"** has the same meaning as defined in, and permitted by, PSERA and the Code;
- o) **"Parties"** means the Employer and the Union;
- p) **"PSERA"** means the *Public Service Employee Relations Act*;
- q) **"Standby"** means the employee must be available and able to report to the employer after being contacted by the Union within 45 minutes of being contacted;
- r) **"Strike"** has the same meaning as defined in, and permitted by, PSERA and the Code;
- s) **"Umpire"** means the person(s) identified in Article 7 of this Agreement and if those persons are unavailable, a person appointed by the Commissioner, and includes the Chief Umpire;
- t) **"Union"** means the Canadian Union of Public Employees, Local 2157;
- u) **"Union Designate"** means a person designated by the Union to act in that capacity;
- v) **"Work Stoppage"** means a strike or lockout permitted under PSERA and the Code.

2.2 The following interpretive guides apply to this Agreement:

- a) Whenever the singular is used, it shall be deemed to extend to and include the plural and vice versa,
- b) The headings in this Agreement have been included for convenience only and do not define, limit or enlarge the scope or meaning of this Agreement or any part of it,
- c) This Agreement does not constitute a precedent for future negotiations of Essential Service Agreements between the Parties.

ARTICLE 3 – SCHEDULING AND ASSIGNMENT OF ESSENTIAL SERVICE WORK

3.1 Upon written notification of a work stoppage, the Employer will provide an Eligibility List to the Union within 48 hours for the purpose of scheduling Essential Services.



Essential Services Agreement
Keyano College Board of Governors

&

The Canadian Union of Public Employees (CUPE) on behalf of Local 2157

- 3.2 The Eligibility List will include the names, position titles, classifications, and contact information for all eligible Bargaining Unit members. In addition, the Employer will, to the best of its knowledge, indicate current status (i.e. leave of absence, employees with work restrictions, or actively at work) of any Bargaining Unit member who is deemed to perform Essential Service.
- 3.3 The Union, in accordance with Part B and the Eligibility List, will agree to the scheduling of eligible bargaining unit members to perform essential services during a work stoppage.
- 3.4 The Union will provide the Employer with a two-week schedule indicating which eligible Bargaining Unit members have been assigned as Designated Essential Services Workers for that period.
- 3.5 The schedule will be provided to the Employer's designate at least 24 hours in advance of the start of the two-week period.
- 3.6 Designated Essential Services Workers will generally be required to work the shift in its entirety so as to ensure the effective delivery of the Essential Services duties (exceptions include, but are not limited to, sudden onset of illness and completion of task to the Employer's satisfaction).
- 3.7 The Union will ensure Designated Essential Services Workers report for all of their scheduled shifts as per the negotiated staffing levels in Part B of the Agreement.
- 3.8 If a Designated Essential Services Worker is ill or otherwise unavailable (e.g., death in the family), they are to notify the Union Designate two hours prior to the scheduled shift. The Union will find an alternate for the worker as soon as reasonably possible and will provide the name of the alternate to the EDHR prior to the start of the shift.
- 3.9 In the event of a special situation or emergency as per Part B Article 2, the Union will contact individuals to perform the work as outlined in that article.

ARTICLE 4 – REMUNERATION

- 4.1 Remuneration for work performed pursuant to the Agreement will be in accordance with the Collective Agreement, except as modified in this Agreement.
- 4.2 During the Work Stoppage, Designated Essential Services Workers will submit manual timesheets indicating the number of hours worked. They will only be paid for hours worked.
- 4.3 The provisions of Article 24 of the Collective Agreement are interpreted to mean that the Union will reimburse the Employer for full health plan premiums costs, both Employer and Employee portions, prorated to account for any hours worked on Essential Services. The Employer is responsible for the Employer portion of the premiums prorated to the hours worked by each Designate Essential Services Worker during a Work Stoppage.
- 4.4 Vacation will be paid out as a percentage on the hours worked in accordance with each individual's accrual rate at the time the Work Stoppage commenced.

- 4.5 Overtime cannot be accrued as Compensatory Time Off and will be paid out.
- 4.6 Union dues are remitted on hours worked.
- 4.7 Service and seniority are not accrued during the Work Stoppage, regardless of hours worked.

ARTICLE 5 – EMERGENCY RESPONSE

- 5.1 Where an Emergency situation arises that cannot be responded to safely and effectively by Bargaining Unit Members on the Eligibility list, positions in addition to those listed in Part B may be deemed essential. In such case, the EDHR will immediately contact the Union Designate to advise them of:
 - a) The nature of the Emergency;
 - b) The positions required to assist with the Emergency; and
 - c) The number of employees from each of the positions that are needed to appropriately respond to the Emergency situation.
- 5.2 The Union will promptly contact those employees who are needed to respond to the Emergency situation. These Bargaining Unit Members will endeavor to report to work within 45 minutes of being contacted to perform Emergency duties.
- 5.3 During an Emergency where Bargaining Unit Members are called in, the Employer will provide the Union with reasonable updates as to the status of the Emergency, including its anticipated duration.
- 5.4 Where a Work Stoppage is still in effect and the Employer determines that some or all Bargaining Unit Members called in are no longer required to respond to the Emergency, the Employer will release those unrequired Bargaining Unit Members as soon as reasonably possible.
- 5.5 In the event of a dispute between the Employer and the Union as to whether an Emergency situation exists, the Bargaining Unit Members will perform the work in question until the issue can be addressed by an Umpire.

ARTICLE 6 – CHANGES IN CIRCUMSTANCES AND AMENDMENTS TO THIS AGREEMENT

- 6.1 While the staffing levels identified in Part B are a best estimate, the parties recognize adjustments may be required during the course of the Work Stoppage. Either Party may, by written notice, propose amendments to this Agreement, including an increase or reduction in the number of Bargaining Unit Members required to maintain Essential Services.
- 6.2 Where agreement has been reached on the revised staffing level under 6.1, the Parties will update the schedule in Part B of this Agreement to reflect this change and the Union will ensure the revised Essential Service staffing levels are met.

- 6.3 In the event of a dispute on an amendment proposed under 6.1, either Party can apply to the Umpire to mediate or settle the proposed amendment. The schedule in Part B of this Agreement will remain in effect until the Parties reach a resolution with the Umpire.

ARTICLE 7 – RESOLUTION OF DISPUTES

- 7.1 The Parties will make every reasonable effort to resolve essential services agreement disputes through negotiations between a Union Designate and the EDHR. Should the Parties be unable to reach agreement, either Party may refer the matter to the Umpire.
- 7.2 The parties agree to the following individual as an acceptable Umpire to resolve disputes in a timely manner on the interpretation, application, or implementation of this Agreement or any allegation that the terms of this Agreement have been breached.

Umpire Name	Umpire Contact Information
Michael Dyer	(403) 875-3521 e.michael.dyer@gmail.com

- 7.3 When a dispute arises during the implementation and application of this Agreement, the dispute will be referred to the Umpire to be heard within twenty-four (24) hours of the referral. Notice will also be provided to the other Party. A decision will be rendered as quickly as possible, but in no event longer than forty-eight (48) hours from the time of the referral. If the agreed-upon Umpire is unavailable, the Parties will refer the issue to the Commissioner for the appointment of a replacement Umpire.
- 7.4 All costs for the Umpire will be paid for in equal parts by the Employer and the Union.

ARTICLE 8 – PICKET LINES

- 8.1 The parties agree that security for any picket lines is outside of the scope of regular bargaining unit work. The Employer will arrange for the current third party vendor to provide additional picket line security as it deems necessary for the protection of people and property.
- 8.2 When Bargaining Unit Members are not at work performing Essential Services, they are able to participate on the picket lines.

ARTICLE 9 – EXISTING CONTRACTUAL RELATIONSHIPS

- 9.1 Where required and as per current practice, third party vendors will continue to be used to meet the Employer's contractual obligations regarding physical infrastructure.
- 9.2 As is the current practice, the Employer may continue to use contractors for capital projects where funding in whole or in part is restricted by terms and conditions set by external agencies or which are not bargaining unit work.

- 9.3 At least 24 hours prior to the commencement of a Work Stoppage, the Employer will provide the Union with a two-week schedule indicating which contractors are expected to be on site, the project, and the location. The schedule will be updated every two weeks, as necessary.
- 9.4 If the Union is unable to provide the required staff to meet the Employer's Essential Services obligations, the terms of the Collective Agreement will prevail.

ARTICLE 10 – MAINTENANCE OF EMPLOYER OPERATIONS

- 10.1 Full operations may not be continued during a Work Stoppage; however, Essential Services will continue to be provided and maintained.
- 10.2 Managerial and other non-bargaining unit employees will be utilized to perform as many services as possible, recognizing this may exceed their applicable hours of work. As per the Collective Agreement, non-bargaining unit employees may also provide non-essential work, providing this work does not prevent them from performing Essential Services for which they are capable and qualified.
- 10.3 Where an Essential Service cannot be performed by management or non-bargaining unit employees, the service will be performed by eligible Bargaining Unit Members wherever possible.
- 10.4 The Bargaining Unit Member(s) providing an Essential Service perform all the essential work duties in Part B of the Agreement. The Employer will not request or require these Bargaining Unit Members to perform any work functions that are not an Essential Service.
- 10.5 Designated Essential Services Workers must be competent in the position and have the required training and qualifications.

ARTICLE 11- EFFECTIVE DATE AND TERM

- 11.1 This Agreement is effective on the date on which it is accepted for filing by the Commissioner and applies with respect to any lawful Work Stoppage related to the round of collective bargaining underway at the time of filing.
- 11.2 This Agreement expires on the earliest of:
- The ratification of a new collective agreement between the parties;
 - The date on which the Commissioner declares that the collective bargaining dispute is to be settled by compulsory arbitration; or
 - The date on which the parties agree to settle their collective bargaining dispute by voluntary arbitration, provided that such agreement also includes the cessation of any Work Stoppage.

ARTICLE 12 – ESSENTIAL SERVICES ORIENTATION

Essential Services Agreement
Keyano College Board of Governors

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The Canadian Union of Public Employees (CUPE) on behalf of Local 2157

- 12.1 The Parties will host an Essential Services Orientation with the Umpire, the Employer's manager, and Union strike leaders.
- 12.2 The Essential Services Orientation will be scheduled when the Parties enter the cooling-off period, as defined in Section 65(7) of the Code.
- 12.3 The purpose of the meeting will be to ensure both Parties understand their obligations in relation to this Agreement. The meeting will be chaired by the EDHR and the Union Designate.
- 12.4 Topics will include:
- a) Rationale for an Agreement;
 - b) The positions which have been deemed essential, and under which circumstances;
 - c) The scheduling of shifts as well as accepting calls from the Union when on standby;
 - d) Reporting for assigned shifts as well as reporting for work when on a standby assignment.
 - e) Completing all Essential Service duties when scheduled;
 - f) Proper protocol for calling in when ill; and
 - g) Compensation while performing Essential Services.

ARTICLE 13 – NOTICE

13.1 Where notice is required or permitted to be given under the Agreement, it may be delivered personally, by registered mail (unless a Work Stoppage is in effect), signed receipt courier, facsimile, or email where receipt has been acknowledged.

13.2 Notice to the Employer shall be provided to:

Keyano College
Att.: Executive Director, Human Resources
8115 Franklin Ave.
Fort McMurray, AB T9H 2H7
Email: suzie.johnson@keyano.ca

13.3 Notice to the Union shall be provided to:

President, CUPE Local 2157
c/o 120 – 9521 Franklin Ave.
Fort McMurray, AB T9H 3Z7
Email: Local2157President@gmail.com

PART B – ESSENTIAL SERVICES

ARTICLE 1 – ESSENTIAL SERVICES

- 1.1 The following services shall be deemed “Essential Services” for the purposes of this Agreement.
- 1.2 When notice of a Work Stoppage is served, the number of eligible Bargaining Unit Members and Capable and Qualified Persons may be modified in accordance with provisions of this Agreement to reflect changes in staff or positions.

ARTICLE 2 – BOILER OPERATIONS AND POWER ENGINEERING LAB

- 2.1 Essential Service duties include checking the heating and cooling plant as well as auxiliary equipment to ensure compliance and safety; monitoring and responding to equipment alarms; and monitoring in the Power Engineering lab.
- 2.2 Where necessary, repairs to the heating, air conditioning, ventilation, and mechanical systems are needed to protect the safety and health of the College community and the public and limit significant damage to property.
- 2.3 During a Work Stoppage, the day-to-day duties will primarily be performed by non-bargaining unit staff when capable and qualified persons are available.
- 2.4 The employees deemed essential for the purpose of the Essential Services Agreement are as follows:

Position and Number of Eligible Bargaining Unit Members	Number of Capable and Qualified Persons	Required Shifts	Staffing Level Per Shift
Building Operator (3)	1 Building Operator	Regular shifts or on-call in case of emergency	Regular shift to address urgent or preventative maintenance and/or to respond to an emergency
Power Engineering Instructor Aide (1)	1 Power Engineering Instructor Aide	Regular shifts or on-call in case of emergency	Regular shift to monitor equipment in the Power Engineering Lab and/or to respond to an emergency

Essential Services Agreement
Keyano College Board of Governors

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The Canadian Union of Public Employees (CUPE) on behalf of Local 2157

IN WITNESS THEREOF the Parties hereto have executed these presents duly attested by their proper officers respectively in that behalf.

SIGNED, SEALED AND DELIVERED THIS _____ DAY OF JUNE, 2018 IN THE PRESENCE OF:

**THE BOARD OF GOVERNORS
KEYANO COLLEGE**

**CANADIAN UNION OF PUBLIC
EMPLOYEES, LOCAL 2157**

Chair - Board of Governors

President

President & CEO

Vice-President

Recording Secretary