

# DE-DESIGNATION OF MANAGEMENT AND PROFESSIONAL STAFF

Spring 2018



- **What is de-designation?**
- **Why de-designate?**
- **Impact of Bill 7**
- **Who is de-designated?**
- **Who does this impact?**
- **How does it affect you?**
- **What is the process?**
- **MAPS terms and conditions / related items**
- **Feedback/questions**

- “Designation” is a process defined under the Section 60 of the Post-Secondary Learning Act (PSLA) that provides the Board of Governors in post-secondary institutions with the authority to determine whether employees or positions are deemed to be “academic staff”.
- Positions not designated as academic are categorized as support staff, graduate students, postdoctoral fellows or are excluded from a bargaining unit.
- Academic staff within the University are represented by AASUA.
- “De-designation” has the effect of removing persons/positions from the academic staff and the scope of the AASUA collective agreements and obliges the university to provide terms and conditions of employment to replace provisions found in those agreements.

- The exclusion of persons performing managerial and confidential labour relations functions from the scope of a bargaining unit is embodied in labour legislation and jurisprudence across Canada and is well-established at other Canadian post-secondary institutions.
- The role of manager has been recognized as being incompatible with membership in a bargaining unit, particularly when the bargaining unit represents the same people they direct or when they have responsibility for decisions that may impact the bargaining unit.
- The conflict of interest is equally apparent for labour relations practitioners or managers who are responsible for representing the Board or participate in collective bargaining, are responsible for confidential labour relations, and who interpret and apply the collective agreements on behalf of their organization.
- Consideration has also been given to the impact of de-designation on the collegial governance structure of the university.
- The Board directed the university to change the designation of academic staff performing managerial and confidential labour relations functions.

- The Labour Relations Code states that workers employed to do confidential labour relations work or exercising managerial functions are not considered employees for the purposes of the statute. Section (1)(l)(i) states:
  - 1(l) “employee” means a person employed to do work who is in receipt of or entitled to wages, but does not include
    - (i) a person who in the opinion of the Board performs managerial functions or is employed in a confidential capacity in matters relating to labour relations.
- Managerial functions include:

Supervision of other academic and/or support staff, hiring and promotion decisions, making recommendations for discipline and layoff, directing the work of others, exercising independence in managerial discretion, supervising subordinate supervisors, evaluating employee performance, recommending merit increments, approving overtime and time off, establishing company policy

- People employed in a confidential capacity relating to labour relations are not considered employees.
- This exclusion is to avoid a conflict of interest.
- An employer requires some staff to handle confidential labour information. This exclusion ensures that employer can rely upon these staff to keep the information confidential.
- Similarly, a person's interest as a member of the bargaining unit might interfere with the performance of their job functions on behalf of the employer.
- The Board narrowly interprets this exclusion. A three-fold test is normally applied:
  1. the person's duties must involve labour relations considerations;
  2. their involvement with this information must be on a regular basis; and
  3. disclosure of this information would adversely affect the employer.

- Bill 7 (An Act to Enhance Post-Secondary Academic Bargaining) passed in May 2017 changed academic labour relations within the province.
- The Act amended the Post-Secondary Learning Act (PSLA) to bring academic employees, academically employed graduate students and postdoctoral fellows under the Alberta Labour Relations Code, subject to provisions within Section 9.1 of the Alberta Labour Relations Code.
- All the rights and remedies that are granted to unions and employers under the Code, including the right to strike and lockout, are now available.
- The PSLA allows the Board to determine which positions should be designated as “academic”. Bill 7 introduced two changes: (i) expanded consultation and (ii) the right to appeal a designation decision and review by the Labour Relations Board.
- The university must establish an excluded management and professional staff that can act on behalf of the board for managerial decisions and/or actions regarding confidential labour relations matters.

- The president and vice-presidents were de-designated effective February 1, 2016 (7 positions)
- An initial seven positions responsible for continuing the de-designation process and beginning preparations for AASUA bargaining were de-designated March 1, 2017.
  - AVP Audit and Analysis; AVP Human Resources; Executive Director Human Resources; Director, Faculty & Staff Relations; Senior Faculty and Staff Relations Officer; Chief of Staff; General Counsel
- Senior academic administrators were de-designated effective August 1, 2017.
  - Deputy Provost, Deans, Vice-Deans, academic AVP's, academic Vice-Provosts (43 positions)

- Selected Administrative Professional Officer (APO) and Temporary Administrative and Professional Staff (TAPS) staff responsible for or involved in confidential labour relations and who perform significant managerial functions were de-designated effective September 1, 2017.
  - AVP's of administrative areas, Human Resources Services, University Relations, President's Office, Senior Administrative Officers (74 positions)

- The Board of Governors has directed the University to proceed with the next phase of de-designation of Administrative Professional Officer (APO) and Temporary Administrative and Professional Staff (TAPS) academic positions and academic staff who perform managerial, professional or confidential labour relations functions as per criteria established by the Alberta Labour Relations Board.
- Select individuals in APO and TAPS academic positions who perform managerial functions and those who are involved in confidential labour relations have been identified by the Board as appropriate for de-designation in this phase.
- This phase of de-designation focuses on a broader list of approximately 200 positions that have been compiled based on the criteria established by the Alberta Labour Relations Board and **does not include** all APO/TAPS positions within the University that may fit the criteria for managerial exclusion.
- Other managerial positions may be considered in future phases of de-designation.

- Your position is one of 195 selected positions that the University has consulted with the AASUA on regarding de-designation.
- Your position is anticipated to become Management and Professional Staff (MAPS) effective July 1, 2018.
- Your appointment will be governed by *The Handbook of Terms and Conditions of Employment for Management and Professional Staff (Excluded)* comparable to those that are provided under the current APO and TAPS agreements.
- Additional considerations have been added to the terms in recognition of the loss of representation.
- Your benefits and pension entitlement will remain the same.
- Your appointment status (continuing / temporary) will not change.
- Real or perceived conflicts of interest within your work and the management and professional duties you perform will be removed.
- As MAPS, you will no longer be represented by AASUA or contribute to AASUA dues.

- BHRCC/Board direction to proceed with de-designation
- Establishment of scope and criteria for de-designation
- Identification of academic positions and academic staff for de-designation
- Extensive consultation with the AASUA
- Notification to academic staff selected for de-designation
- Information sessions with affected employees
- Formal notice of decision following consultation with affected employees
- New appointment letters provided to affected employees
- Representation by AASUA continues until effective date
- Opportunity to appeal decision with the Alberta Labour Relations Board
- Updating of HCM records – change category to MAPS
- Action anticipated to take effect July 1, 2018

Article 1: Definitions

Article 2: Application

Article 3: Appointments

Article 4: Duties, Hours of Work and Relocation

Article 5: Compliance with Policies and Procedures

Article 6: Evaluation of Positions

Article 7: Professional and Educational Leave

Article 8: Probationary Period

Article 9: Performance Review, Evaluation and Professional Development

Article 10: Resignation

Article 11: Retirement

Article 12: Salaries, Vacation and Benefits

Article 13: Death or Accident in Service

Article 14: Termination of Employment

Article 15: Medical Leave

Article 16: Leaves

Article 17: Paid Holidays

Article 18: Personal Leave Days

Article 19: General Liability Insurance

Some examples:

- Article 4: The standard work week shall be 40 hours.
- Article 8: Probationary Period - reduction of probationary period
- Article 12: Salaries, Vacation and Benefits - increased vacation entitlement, addition of benefits for PT employees on term appointments.
- Article 18: Addition of five Personal Leave Days

  

- The *Handbook of Terms and Conditions of Employment For Management and Professional Staff (Excluded)* is available on the Faculty and Staff website. Navigate to [My Employment > Collective Agreements](#)
- MAPS employees will participate in the Management and Professional Staff (Excluded) Benefit Program - same provisions as existing APO or TAPS benefit plan
- The *Excluded Management and Professional Staff Benefit Program* can be found on the Faculty and Staff website.

- Pay scales will mirror that of the APO/TAPS agreements.
- The Board will be responsible for determining any adjustments to the pay schedules and benefit program in the future.
- MAPS employees will continue to use the PREPD evaluation process.
- MAPS will be awarded increments for meritorious performance (not automatic nor based on years of service).
- HAYS point evaluation system will be used to evaluate positions.
- Academic Supplementary Retirement Plan (ASRP) will be replaced with the Executive Defined Contribution Supplemental Retirement Plan (EDCSRП)
- UAPPOL Recruitment policy (Appendix A) identifies this new category of employees.
- Excluded staff are subject to GOA compensation regulation.

- In March of 2016, the Government of Alberta directed the University of Alberta to freeze the compensation and grid movement for all staff not governed by a collective agreement for the period April 1, 2016 to March 31, 2018.
- This compensation freeze applies to our executive team (President and Vice-Presidents), Academic Administrators, members of the Management and Professional Staff (Excluded), and all excluded support staff.
- The Government has introduced a new regulation under the Reform of Agencies, Boards and Commissions Compensation Act that requires the extension on this compensation freeze until September 30, 2019.
- If eligible, employees will receive their increment under the collective agreement prior to their transfer to the MAPS position on July 1, 2018.
- The University will continue to monitor and assess this directive and future regulations, assess options, and provide further information to all impacted employees as it becomes available.

