VOLUNTARY RECOGNITION AND BECOMING A UNION MEMBER

A few important facts to know about your rights under the Labour Relations Code with regard to voluntary recognition and becoming a union member.

The Labour Relations Code (LRC) is the provincial legislation that governs relations between employers, unions and employees in British Columbia. It addresses the establishment of union representation, collective bargaining, and all matters related to unionized workplaces.

The LRC’s provisions are litigated at the BC Labour Relations Board, which is an independent, administrative tribunal. Its mandate is to settle and decide employment and labour relations matters involving employers, unions and employees.

What is Voluntary Recognition?

There are a number of ways employees may unionize, all covered in the Labour Relations Code. For example, a group of employees may “organize” and create their own union, or a union may arrange a certification drive, asking employees to indicate their interest in joining the union by signing cards and voting to join that union. An employer may also agree to “voluntarily recognize” a union as the bargaining unit for a group of employees. In this case, the union does not seek certification under the Code and instead both parties sign an agreement; the employer agrees to acknowledge the union as a bargaining agent for the employees and both agree to engage in collective bargaining to negotiate the terms and conditions for the employees.

On November 15th, 2019 the University and the TSSU signed an eleven-point Memorandum of Agreement (MOA) of Voluntary Recognition with the TSSU that voluntarily recognizes the “TSSU as the bargaining agent for those persons who hold positions as research assistants or grant employees at SFU who are or who will become employees of SFU and who are not properly included in the bargaining unit of another union”.

Who is included in the November 2019 Voluntary Recognition MOA?

- Persons who have been transitioned from employee of a grant holder to employee of the university;
- are earning employment income; and
- are primarily involved in research as defined by the Canada Revenue Agency: “Research involves a critical or scientific inquiry aimed at the discovery of new facts, or the development of new interpretations or applications.”

In a normal course of events, the employees included in a Voluntary Recognition agreement are easily identified by their appointment or working group. In the case of Research Assistants (RA) who were, at the signing of the MOA, still employees of the grant holder and engaged in a very diverse range of employment, work, and responsibilities, the first task for the SFU Research Personnel Initiative project team was to identify those who met the definition and transition them to SFU employees in order that they could be included in the Voluntary Recognition MOA.

Who is not included in the November 2019 Voluntary Recognition MOA?

- Persons who primarily support research activities but do not participate in the research themselves, such as Administrative/Financial support, Lab Management, Communications/Technical writing, or IT/Knowledge Translation (Developer, Programmer, and Coder);
- persons who hold an appointment as a Postdoctoral Fellow OR University Research Associate; and
- persons who receive scholarship income to support their research activities.
How will I know if I have been transitioned to an SFU employee?
You will have signed an Offer of Employment from the operational unit of the Research Initiative Team.

What if I am already a member of TSSU?
Many RAs hold other appointments which are represented by the TSSU, such as Teaching Assistant, Sessional Instructor, Tutor Marker, or Graduate Facilitator. Some RAs hold SFU appointments in other employee groups, such as CUPE Local 3338. The terms of employment relate to your appointment, and you may find yourself in two different unions. If you are in an RA appointment and you are one of the “included” group mentioned above, your current terms and conditions will stay the same until the RA terms and conditions have been negotiated between SFU and TSSU in collective bargaining and ratified. These new terms and conditions, if accepted by the eligible members, will form a new part of the TSSU Collective Agreement. This process is defined by the BC Public Sector Employees Council, BC Labour Code, TSSU bylaws and SFU policy.

How this process unfolds:
1. Representatives of SFU and TSSU will meet to negotiate terms and conditions for RAs, as part of the TSSU Collective Agreement.
2. Once an agreement is reached, eligible individuals will be offered the opportunity to review and vote on the new terms and conditions. If the eligible individuals vote to agree to the terms, this is also counted as an agreement to have TSSU as their representative union. If the terms and conditions are voted down, RAs will continue as SFU employees, protected by standard employment legislation such as Employment Standards Act, WorkSafe BC and the Human Rights Code. Another union may attempt to certify the group, or RAs may decide to form their own union, or remain unaffiliated to a union.
3. At the same time, the representatives for SFU will seek approval of the terms and conditions from the SFU Board of Governors.

When agreement and ratification are concluded, TSSU may apply to the Labour Relations Board of British Columbia to alter their certification to include Research Assistants.

SOME COMMONLY ASKED QUESTIONS
Can I ask my employer questions about certification?
- Yes, but the employer is not in the best position to answer all your questions. The decision as to whether a group of employees wish to be represented by a union is entirely the decision of those employees. If you have questions about your rights or the certification process you may wish to contact the Board’s Information Officer at 604 660 1304 or information@lrb.bc.ca

Can I lose my job for supporting or not supporting the union?
- No. An employer cannot dismiss or discipline an employee for supporting a union’s efforts to organize the workplace, and a union cannot have the employee dismissed for refusing to support the union’s organizing efforts. The activities of a union during certification are governed by the Labour Relations Code.

Can my working conditions change during the union’s organizing drive?
- No. Employers must continue “business as usual” during the union’s organizing drive. However, the Memorandum of Agreement also states “to the extent the current terms and conditions of employment of an Included Person are within SFU’s control, the parties agree the terms and
conditions of employment and related matters shall remain as status quo for Included Persons.”

This is because of the short-term nature of an RA appointment where during this period contracts will expire, be renewed and change with renewal. Terms and conditions of employment for Research Assistants may change with the acceptance of a negotiated Collective Agreement.

Without a Collective Agreement in place for Research Assistants, how are Research Assistant appointments governed?

- Terms and conditions of employment will continue to be in accordance with employment legislations such as the Employment Standards Act of BC, the Human Rights Code and WorkSafe BC.

For additional detailed information, you may wish to view these sites from the Labour Relations Board/Code:
http://www.lrb.bc.ca/guidelines/certification.htm
http://www.lrb.bc.ca/codeguide/chapter4.htm