



Submission to the Special Advisors on the Changing Workplaces Review

C. Michael Mitchell
The Honourable John C. Murray

Messrs. Mitchell and Murray,

The Ontario Undergraduate Student Alliance (OUSA) is an advocacy and research organization that represents nearly 140,000 students at 7 Ontario universities. OUSA works to enhance the accessibility, affordability, accountability, and quality of post-secondary education. We research and represent student interests in 19 policy areas covering nearly every aspect of student life and learning – including student employment, work-integrated learning and other experiential learning practices.

OUSA worked with the Ministry of Labour to navigate changes to occupational health and safety regulations that unintentionally excluded unpaid workers from being defined as workers, which extended certain protections and educational opportunities to unpaid interns or those working through experiential learning programs.

As you undertake the Changing Workplaces Review, OUSA encourages you to consider amending a similar provision within the Employment Standards Act. Questions 8 and 9 in the consultation guide concern ‘ESA Coverage’ and ask whether there are exempted groups and special relationships that warrant review. Currently, students performing work under a program approved by a college of applied arts and technology or university are wholly exempted from coverage in the Employment Standards Act (3.(5).2). The Ontario Undergraduate Student Alliance submits that students undertaking this type of work should be eligible for coverage under the ESA. Students hope that during the rewrite of the ESA the blanket exemption for students so placed through a program at a post-secondary education institution will be removed, providing ESA protections for those students.

Obviously a core issue of this exemption is around pay for students in these placements. Many will argue that certain types of placements are necessary for the continuation of certain trades and industries. Others will point to educational opportunities as being largely beneficial to the student, and but occasionally detrimental to the employer. Still others will describe traditional, heavily educational experiences such as teaching or nursing practicums as being the rationale behind the exemption as it is. Students feel that the existing criteria in the ESA determining who is an ‘employee’ (and therefore eligible for pay and other



protections) or who is a 'person receiving training' already serves to make this distinction (section 1.(2)), and allows for truly educational placements.

The blanket exemption such as it is leaves students vulnerable regarding less contentious elements of the ESA – such as those governing lunch breaks, overall working hours, holidays, leave, complaints and conditions of termination. Strict enforcement of the training exemption is a more transparent and predictable practice than the blanket exemption, particularly in light of the increasing amount of university and college facilitated placements.

We hope that as part of the review you consider removing the exemption for all students in a post-secondary institution-facilitated placement, and instead allow the provisions for persons receiving training (1.(2)) to instead address those relationships that are truly educational in nature.

Please do not hesitate to contact OUSA Executive Director Sean Madden (sean@ousa.ca or 416 341 9948) or myself should you have any questions.

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