



## STAFF REPORT ACTION REQUIRED

### Grievance Summary Report

<b>Date:</b>	September 24, 2015
<b>To:</b>	Employee and Labour Relations Committee
<b>From:</b>	Acting Executive Director of Human Resources
<b>Wards:</b>	All
<b>Reference Number:</b>	

### SUMMARY

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This report provides a summary and analysis of grievance and arbitration activity for the six month period of July 1, 2014 to December 31, 2014.

The number of open grievances at the City has been steadily declining since 2009, with a further 8.5% decrease in the number of open grievances from year-end 2013 (2,360 open grievances) to December 31, 2014 (2,160 open grievances). The number of grievances being resolved or withdrawn continues to exceed the number of new grievances being filed, with 384 new grievances filed during the last half of 2014 and 517 open grievances resolved or withdrawn during the same time period.

### RECOMMENDATIONS

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The Acting Executive Director of Human Resources recommends that:

1. The Employee and Labour Relations Committee receive this report for information.

### Financial Impact

There are no financial impacts to this report.

## ISSUE BACKGROUND

The Executive Director of Human Resources is required to submit a comprehensive Semi-Annual Grievance Summary Report to the Employee and Labour Relations Committee. This submission covers the reporting period of July 1, 2014 to December 31, 2014.

## COMMENTS

### Grievance Activity

There were 384 new grievances filed during the six month period July 1, 2014 to December 31, 2014; during the corresponding time frame last year (July to December 2013) 416 new grievances were filed. This represents a decrease of approximately 7.7% in new grievances compared to the same timeframe in 2013 (i.e., July 1, 2013 to December 31, 2013).

There were 517 grievances resolved or withdrawn during this six month period July 1, 2014 to December 31, 2014.

The resolution rate of open grievances in this six month period is 34.5% higher than the number of new grievances filed (384 new grievances filed versus 517 grievances resolved or withdrawn) resulting in a 8.5% net decrease in the total number of open grievances from 2,360 grievances at the end of 2013 to 2,160 grievances as at December 31, 2014.

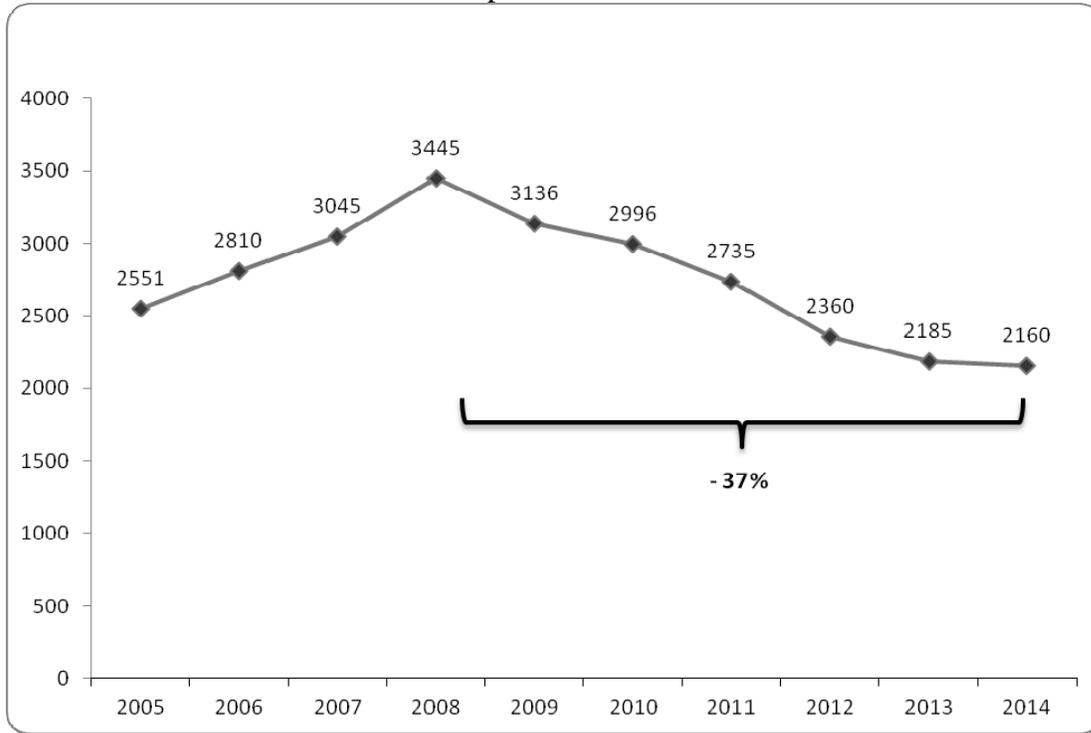
### New and Resolved Grievances

	2nd Half of 2013	2 <sup>nd</sup> Half 2014	% Change
New Grievances	416	384	
Resolved or Withdrawn Grievances	616	517	
<b>Open Grievances</b>	2360 as of December 31, 2013	2160 as of December 31, 2014	-8.75

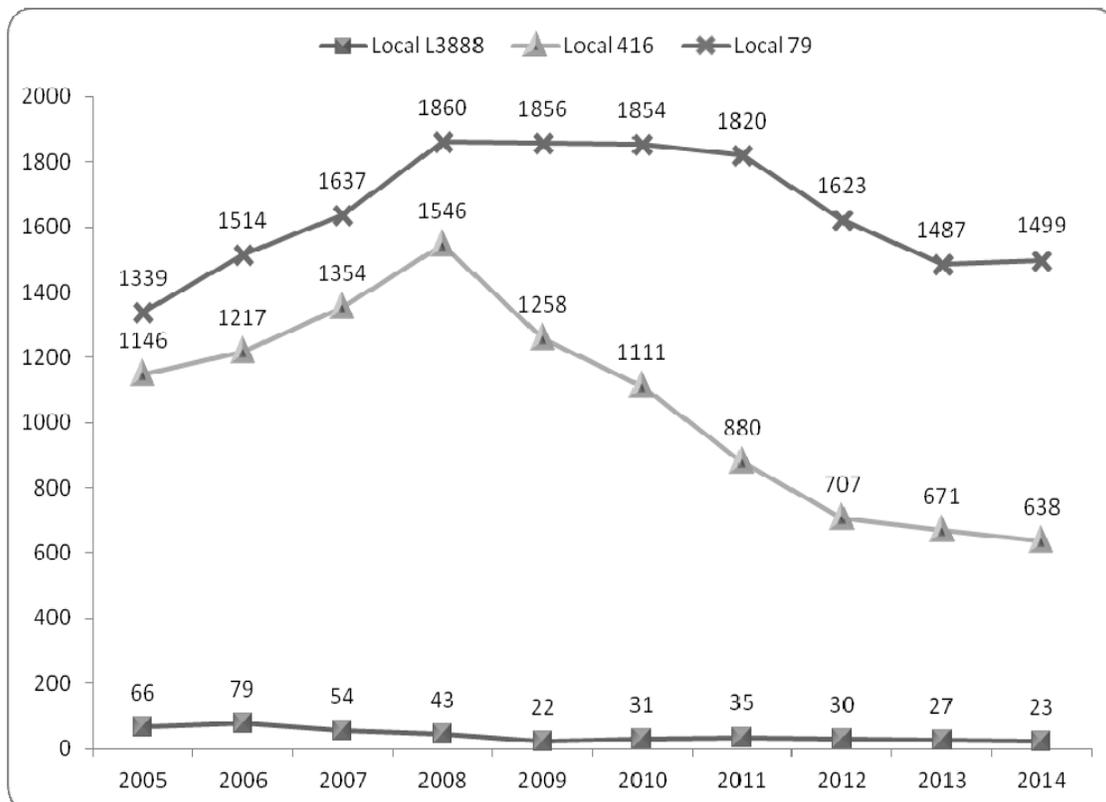
### Open Grievances: 2009 to 2014

The resolution rate of open grievances continues to exceed the number of new grievances being filed. This has resulted in a steadily decreasing number of open grievances since its peak in 2009 (following the six week labour disruption) at 3,445 open grievances compared to 2,160 open grievances at December 31, 2014. This represents a 37.3% decrease in the number of open grievances over the past four years (3,445 - 2,160 = 1,285 fewer open grievances).

### Open Grievances



### Open Grievances by Union Affiliation



The number of CUPE Local 79 open grievances has continued the decline that began in 2013 (11% reduction over 2012) and a further 8.5% reduction in the first half of 2014 (-176 open grievance reduction).

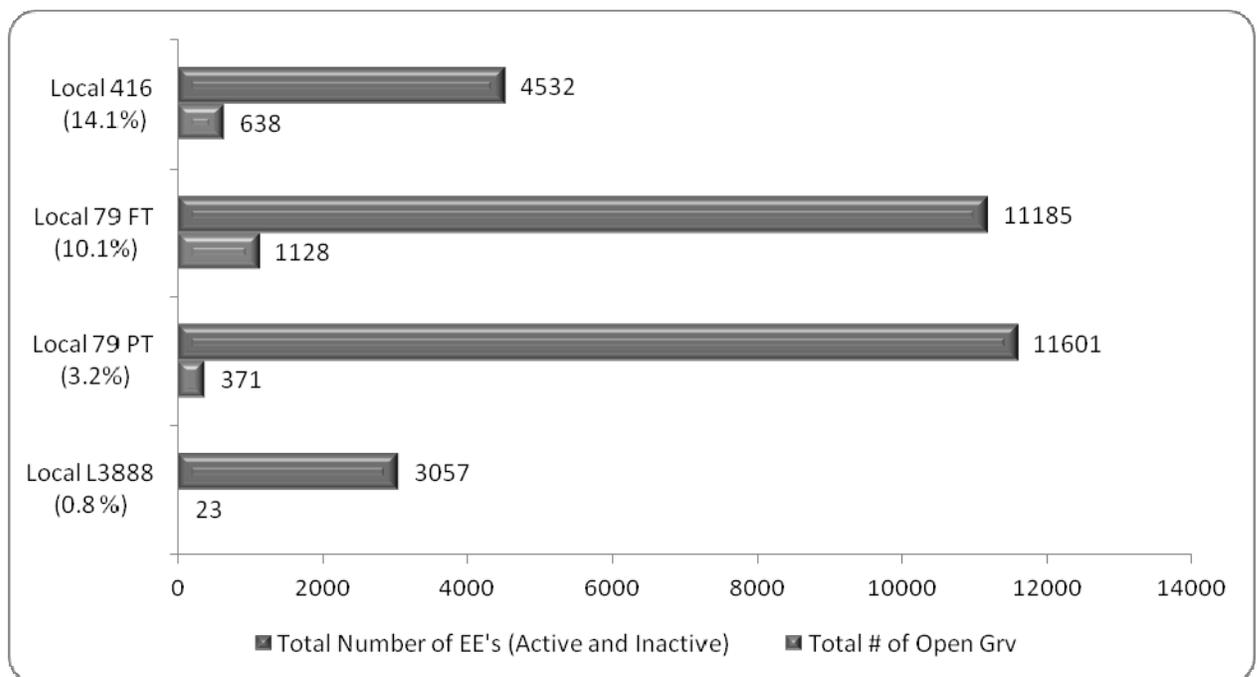
The year-end numbers of open grievances in TCEU Local 416 has been steadily decreasing since its peak in 2009 of 1,546 open grievances to its current figure of 638 open grievances as at December 31, 2014. This represents a 59% reduction in the number of open grievances in Local 416 during the past four and one-half years (-908 grievances).

The number of open grievances in TPFPA Local 3888 has remained relatively flat over the past seven and one-half years, ranging from its highest year-end number of 79 open grievances in 2007 to its lowest year-end number of 22 open grievances in 2010. As at December 31, 2014 there were 23 open grievances in Local 3888; reductions of 3 open grievances from year end 2013.

### Grievance Ratio by Union Affiliation

The chart below provides the "grievance ratio" as the ratio of open grievances in relation to the number of members in a particular union (i.e. number of open grievances / number of union members). The number of grievances provided in this report is a snapshot of the running total of open grievances as at December 31, 2014.

Grievance Ratio by Union Affiliation – December 31, 2014



For Chart 3 purposes, the three part-time CUPE Local 79 Units (Part-Time Unit B, Part-Time Long-Term Care Homes & Services Unit, Part-Time Recreation Workers Unit) have been grouped together.

Local 416 has the highest grievance ratio at 14.1% (number of open grievances / number of union members) with an average of 1 open grievance per 7.11 Local 416 bargaining unit members.

The Local 79 Full Time Unit has a lower grievance ratio than Local 416 at 10.1% (number of open grievances/ number of union members) with an average of 1 open grievance per 9.92 Local 79 Full Time bargaining unit members.

The Local 79 Part Time Units have a relatively low grievance ratio at 3.2% (number of open grievances/ number of union members), with an average of 1 open grievance per 31.3 Local 79 Part Time bargaining unit members.

Local 3888 has the lowest grievance ratio at the City at 0.8% (number of open grievances/ number of union members), with an average of 1 open grievance per 132.91 Local 3888 bargaining unit members

See Appendix 1 for a breakdown of grievance activity by division.

#### Most Common Grievance Issues

Discipline remains the most commonly grieved issue at the City representing 27% of all open grievances. Discipline grievances relate to allegations of an unjust disciplinary action (written warning, suspension, discharge) issued by management against an employee for matters such as excessive lateness, insubordination, failure to report to work, theft, unsatisfactory performance, conflict of interest, failing to comply with City or divisional policies, etc.

Promotions or alternate rates are the second most commonly grieved issue at the City representing 13% of all open grievances. Promotion/alternate rate grievances typically relate to allegations that an employee has been unfairly denied a promotional opportunity through a job call or should have been granted a temporary alternate rate opportunity.

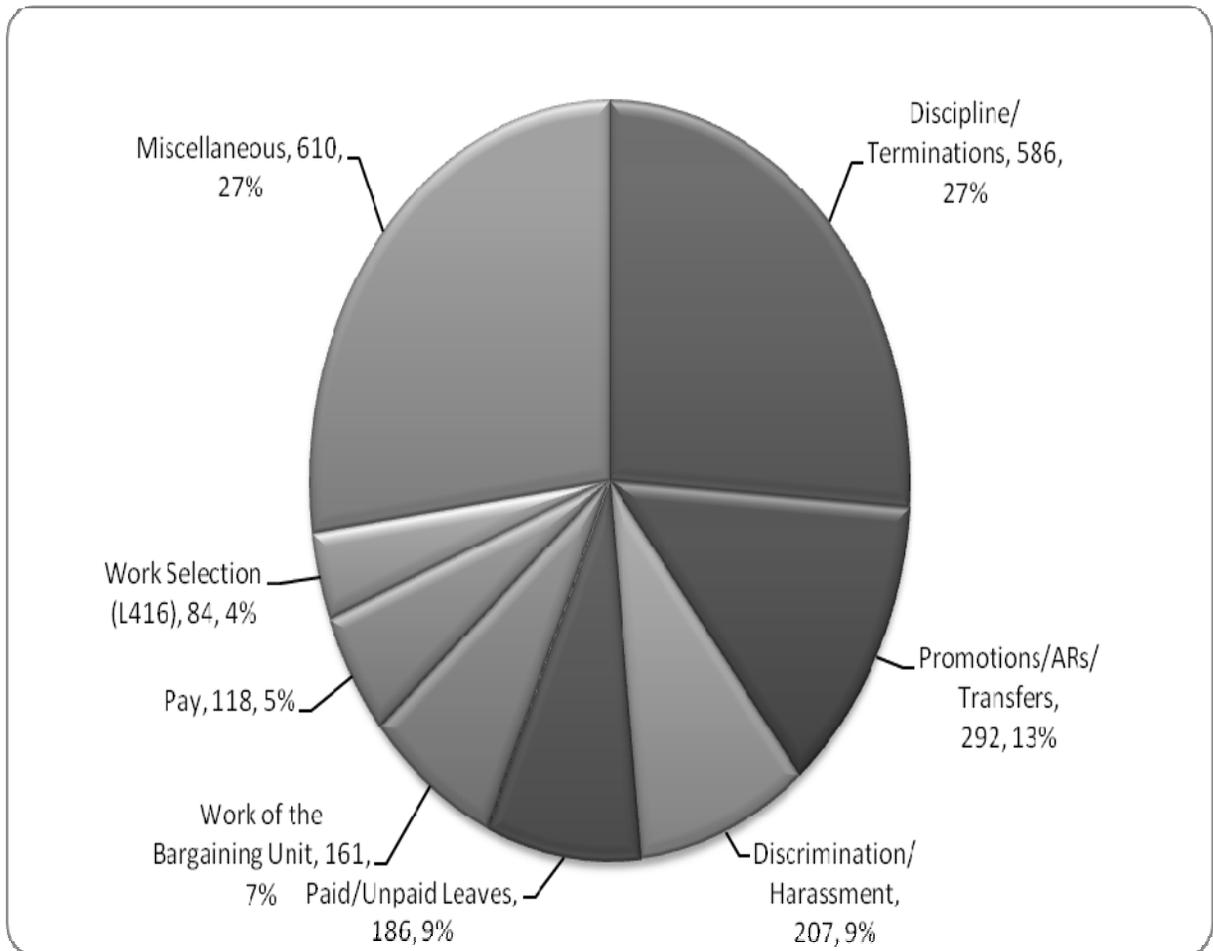
Allegations of discrimination or harassment in the workplace is the third most commonly grieved issue at the City representing 9% of all open grievances. Discrimination/harassment grievances sometimes relate to allegations of violations under the Human Rights Code and/or the City's Human Rights & Anti-Harassment Policy but are more commonly filed in conjunction with discipline grievances alleging harassment on the grounds of being disciplined. Paid and Unpaid Leaves is tied at 9%.

Work of the Bargaining Unit is the fourth most commonly grieved issue at the city representing 7% of all open grievances, followed closely by Work Selection at 4%.

Since the last reporting period there were slight increases in the percentage of discipline and harassment grievances expressed as most commonly grieved issues and a slight increase in promotions/alternate rate grievances and discrimination/harassment grievances.

The chart below represents the most commonly grieved issues at the City, with the top three issues accounting for almost 50% of all open grievances, consistent with the ratios from the last six month reporting period.

Most Common Grievance Issues



\*\* Miscellaneous refers to issues where % is equal to or less than 5%;

## Top 5 Grievance Issues by Union Affiliation

The table below depicts the top five grieved issues at the City broken down by union affiliation.

<b>L3888 (23 Grievances Total)</b>		
Health/Safety/Return to Work	6	26.1%
Other	4	17.4%
Hours of Work	2	8.7%
Pay	2	8.7%
Work of the Bargaining Unit	2	8.7%

<b>L79 PT-LTCHS (116 Total Grievances)</b>		
Discipline/Terminations	55	47.4%
Hours of Work	17	14.7%
Discrimination/Harassment	14	12.1%
Seniority/Service	9	7.8%
Promotions/ARs/Transfers	7	6.0%

<b>L416 (638 Total Grievances)</b>		
Discipline/Terminations	154	24.1%
Promotions/ARs/Transfers	129	20.2%
Work Selection (Local 416)	84	13.2%
Work of the Bargaining Unit	47	7.4%
Overtime/Call Back/Standby	41	6.4%

<b>L79 PT Rec Workers (122 Total Grievances)</b>		
Discipline/Terminations	48	39.3%
Discrimination/Harassment	18	14.8%
Hours of Work	15	12.3%
Pay	14	11.5%
Work of the Bargaining Unit	14	11.5%

<b>L79 FT (1128 Total Grievances)</b>		
Discipline/Terminations	299	26.5%
Promotions/ARs/Transfers	141	12.5%
Discrimination/Harassment	129	11.4%
Paid/Unpaid Leaves	127	11.3%
Work of the Bargaining Unit	73	6.5%

<b>L79 PT-Unit B (133 Total Grievances)</b>		
Discipline/Terminations	29	21.8%
Work of the Bargaining Unit	25	18.8%
Paid/Unpaid Leaves	19	14.3%
Hours of Work	13	9.8%
Discrimination/Harassment	11	8.3%

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## Local 3888

Since the last reporting period, January 1, 2014 – June 30, 2014, the issues grieved have changed somewhat statistically speaking. Local 3888 has relatively low grievance activity, with Health/Safety/Return to Work being the most commonly grieved issue. Discipline is no longer in the top five.

## Local 416

Discipline is the most commonly grieved issue in the Local 416 Unit, representing 24.1% of the 638 open grievances, followed closely by promotions at 20.2%, work selection at 13.2%, work of the bargaining unit at 7.4% and overtime/call back/standby at 6.4%.

## Local 79 Full-Time Unit

Discipline is the most commonly grieved issue in the Local 79 Full Time Unit at 26.5% of their 1,128 open grievances, followed by promotions at 12.5%, and discrimination/harassment at 11.4%.

## Local 79 Part-Time Units

Similar to the Local 79 Full Time Unit, discipline is also the most commonly grieved issue for the 371 open grievances in the three Local 79 Part Time Units at 34.7%, followed by discrimination/harassment at 12%, and hours of work at 12.3%.

## Potential Liability

Of the active policy grievances, there is only one grievance that represents a liability. This is a grievance currently at arbitration filed by Local 79 which is seeking reimbursement for taxes paid by employees resulting from the City's revision of its parking policy to conform with the Canada Revenue Agency (CRA) audit which determined that parking at identified City facilities is a taxable benefit.

The other policy grievance with potential liability is not active *per se*. The City received an unfavourable decision at arbitration on the matter of which employees from the former City of Toronto and North York are entitled to "Post 65 Benefits" for Local 416. The City is seeking Judicial Review of the Arbitrator's decision on the basis that the arbitrator exceeded his jurisdiction and his decision is unreasonable.

## **SUMMARY**

With the resumption of responsibility for Step 2 grievance management in the large majority of City divisions, the Employee & Labour Relations section has been successful in facilitating resolution of disputes at the earliest possible stage, and in ensuring a consistent corporate-wide perspective in resolving these matters. Since its peak in 2009 at 3,445 open grievances, the City has experienced positive movement in the consistent

decline in the number of open grievances to the current figure of 2,160 open grievances. This represents a 37.3% decrease in the total number of open grievances over the past five years.

## **CONTACT**

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## **SIGNATURE**

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Barbara Shulman  
Acting Executive Director of Human Resource

## **ATTACHMENT**

Appendix 1 - Open Grievance Numbers and Grievance Ratios by Service Area and Division

## Appendix 1

### Open Grievance Numbers and Grievance Ratios by Service Area and Division

The tables below provide a breakdown of open grievances by Service Area and Division as at December 31, 2014. The count of union staff is based on headcount of active, inactive, laid-off within 24 months and currently terminated employees.

**Table 2a: Open Grievances – Cluster A**

Cluster A Divisions	Step 2's	Step 3's	Arbitration	Total Grievances	% of Total Grievances	# of Union Staff	Grievance Ratio
Affordable Housing Office	1	0	0	1	0.05%	14	7.14%
Children's Services	46	25	13	84	3.89%	1069	7.86%
Court Services	6	4	7	17	0.79%	231	7.36%
Economic Development & Culture	1	6	0	7	0.32%	289	2.42%
Employment & Social Services	67	98	16	181	8.38%	1949	9.29%
Long-Term Care Homes & Services	126	80	24	230	10.65%	3087	7.45%
Parks, Forestry & Recreation	137	132	80	349	16.16%	10043	3.48%
Public Health	19	51	10	80	3.70%	1761	4.54%
Shelter, Support & Housing Admin	35	30	8	73	3.38%	682	10.70%
Social Development, Finance & Admin	0	0	0	0	0.00%	59	0.00%
Toronto Office of Partnerships	0	0	0	0	0.00%	1	0.00%
Toronto Paramedic Services	113	103	26	242	11.20%	1267	19.10%
<b>Total Cluster A</b>	<b>551</b>	<b>529</b>	<b>184</b>	<b>1264</b>	<b>58.52%</b>	<b>20,452</b>	<b>6.18%</b>

**Table 2b: Open Grievances – Cluster B**

Cluster B Divisions	Step 2's	Step 3's	Arbitration	Total Grievances	% of Total Grievances	# of Union Staff	Grievance Ratio
City Planning	1	2	3	6	0.28%	285	2.11%
Deputy City Manager B Office	0	0	0	0	0.00%	5	0.00%
Engineering & Construction Services	2	12	16	30	1.39%	296	10.14%
Fire Services	19	14	2	35	1.62%	3090	1.13%
Municipal Licensing & Standards	12	35	5	52	2.41%	392	13.27%
Policy, Planning, Finance & Admin	1	3	0	4	0.19%	113	3.54%
Solid Waste Management Services	76	98	16	190	8.80%	865	21.97%
Toronto Building	5	19	5	29	1.34%	345	8.41%
Toronto Water	45	45	7	97	4.49%	1261	7.69%
Transportation Services	56	17	29	102	4.72%	833	12.24%
<b>Total Cluster B</b>	<b>217</b>	<b>245</b>	<b>83</b>	<b>545</b>	<b>25.23%</b>	<b>7485</b>	<b>7.28%</b>

**Table 2c: Open Grievances – Cluster C**

Cluster C Divisions	Step 2's	Step 3's	Arbitration	Total Grievances	% of Total Grievances	# of Union Staff	Grievance Ratio
311 Toronto	4	13	15	32	1.48%	178	17.98%
Accounting Services	0	1	0	1	0.05%	81	1.23%
Corporate Finance	1	0	0	1	0.05%	13	7.69%
Environment & Energy Office	0	0	0	0	0.00%	21	0.00%
Facilities Management*	60	23	15	98	4.54%	553	17.72%
Finance & Administration	0	0	0	0	0.00%	4	0.00%
Financial Planning	0	0	0	0	0.00%	0	0.00%
Fleet Services	18	36	14	68	3.15%	141	48.23%
Information & Technology	15	7	3	25	1.16%	416	6.01%
Office of the Chief Corporate Office**	0	0	0	0	0.00%	47	0.00%
Pension, Payroll & Employee Benefits	2	2	1	5	0.23%	107	4.67%
Purchasing & Materials Management	1	1	0	2	0.09%	98	2.04%
Real Estates Services	1	0	1	2	0.09%	50	4.00%
Revenue Services	9	10	2	21	0.97%	275	7.64%
<b>Total Cluster C</b>	<b>111</b>	<b>93</b>	<b>51</b>	<b>255</b>	<b>11.81%</b>	<b>1984</b>	<b>12.85%</b>

\*Includes Facilities Design & Construction and Operations.

\*\*Office of the Chief Corporate Office (OCCO) includes Business Performance Management and Corporate Security

**Table 2d: Open Grievances – Other City Divisions**

Other City Divisions	Step 2's	Step 3's	Arbitration	Total Grievances	% of Total Grievances	# of Union Staff	Grievance Ratio
City Clerk's Office	5	7	6	18	0.83%	306	5.88%
City Council	0	0	0	0	0.00%	1	0.00%
Human Resources	0	0	0	0	0.00%	2	0.00%
Legal Services	3	0	7	10	0.46%	132	7.58%
Executive Management	0	1	0	1	0.05%	4	25.00%
Non Programs Default	0	0	0	0	0.00%	59	0.00%
Strategic Communications	0	2	0	2	0.09%	16	12.50%
<b>Total Other</b>	<b>8</b>	<b>10</b>	<b>13</b>	<b>31</b>	<b>1.44%</b>	<b>520</b>	<b>5.96%</b>

**Table 2e: Open Grievances – City Wide**

Citywide Grievances	Step 2's	Step 3's	Arbitration	Total Grievances	% of Total Grievances	# of Union Staff	Grievance Ratio
Citywide	N/A	57	8	65	3.01%		

**Table 2f: Open Grievances - TORONTO PUBLIC SERVICE SUMMARY**

	Step 2's	Step 3's	Arbitration	Total Grievances	% of Total Grievances	# of Union Staff	Grievance Ratio
<b>Total Individual or Group Grievances</b>	879	726	286	1891	87.55%	30,441	6.21%
<b>Policy Grievances</b>	n/a	216	53	269	12.45%	n/a	n/a
<b>TOTAL</b>	<b>879</b>	<b>942</b>	<b>339</b>	<b>2,160</b>	<b>100%</b>	<b>30,441</b>	<b>7.10%</b>

As at December 31, 2014, the City of Toronto has 2,160 open grievances with a grievance ratio of 7.1% (number of open grievances/ number of unionized staff).

Out of the open 2,160 grievances at the City, 65 or 3.01% are City-wide policy grievances filed against the corporation and not attached to any particular City division or employee. Policy grievances typically relate to an organization-wide initiative, policy or interpretation of the collective agreement and are filed directly at Step 3 of the grievance procedure.