

Labour Relations – Frequently Asked Questions



Lately, HR Insider has been asked many questions regarding labour relations. Although most agreements are specific to the two negotiating parties, the following is a great FAQ from the University of Guelph.

1. What is a collective agreement?

A collective agreement is a written contract between the employer and a union that outlines many of the terms and conditions of employment for employees in a bargaining unit. The terms and conditions are reached through collective bargaining between the employer and the union. The kinds of terms and conditions covered by a collective agreement typically include wages and benefits, as well as terms and conditions of employment that relate to e.g., job postings; obligations and responsibilities of the employer, the employee and the union; and a dispute resolution process (usually a grievance and arbitration procedure).

2. What is collective bargaining?

Collective bargaining is a process in which a union and an employer negotiate a group agreement. In this process, the parties usually focus on such issues as wages, benefits and working conditions.

3. How are negotiations for a collective agreement begun?

Either the employer or the union may give notice to bargain within the 90 days before the current agreement is due to expire, or during any other time period specifically set out in the agreement. In either case, the union and the employer must meet within 15 days from the giving of notice, unless they agree to some other time period.

4. What is the usual outcome of collective bargaining?

Collective bargaining usually results in an agreement acceptable to the union and employer that is reached through negotiations at the bargaining table. If, during negotiations, the employer and the union cannot agree on the terms of a collective agreement, either the employer or the union may ask the Minister of Labour to appoint a conciliation officer. This officer will then try to help the parties reach an agreement.

5. What is conciliation?

Conciliation is a process by which a union or an employer can ask the Ministry of Labour for help in resolving their differences so that they can reach a collective agreement. Either party may apply to the Ministry. If parties are in negotiations, conciliation is mandatory in the sense that the parties must use the government's conciliation services before the union can be in a position to engage in a legal strike, or, the organization can be in a legal position to lock-out employees in the bargaining unit.

6. What if the employer and the union cannot reach agreement in conciliation?

The conciliation officer informs the Minister of Labour that the union and the organization have been unable to agree on a collective agreement to that point in their negotiations and will ask the Minister of Labour to issue a "No Board" report. 17 days after the date of the No-Board Report becomes the "strike deadline" date - on that date the union is legally allowed to and the organization is legally allowed to lock-out employees in the bargaining unit.

7. Is there any further assistance is available from the Ministry of Labour after a "No Board Report" gets issued?

Between the date of the No-Board Report and the strike deadline date the union or the organization may request from the Ministry the assistance of a Mediation officer to facilitate further negotiations leading up to the strike deadline date. The Mediation officer appointed is usually the same person who provided Conciliation services to the parties. This helps to make sure that the Mediation officer has continuity with the parties and a good understanding of the issues that remain outstanding.

8. Must there be a strike vote before a strike can take place?

YES. A strike vote by secret ballot is required before the union can lawfully commence a strike of employees in the bargaining unit. The strike vote must be taken within 30 days or less before the collective agreement expires or at any time after the collective agreement expires. In either case, a majority (50% +1) of those voting by secret ballot must vote in favour of strike action in order for the union to be able to call a strike on or after the strike deadline date. In case of a first collective agreement, the vote must be conducted after the appointment of a conciliation officer. All employees in a bargaining unit have the right to participate in such a vote. A strike vote must be by secret ballot and all members of the bargaining unit must have ample opportunity to cast a ballot at a reasonably convenient time and place. This is a vote that is conducted entirely by the union; it is not supervised by the Ministry of labour, and it is entirely up to the union as to whether it will release the specific vote results. The outcome of this vote will tell the union whether the employees in the bargaining unit are for or against going on strike. As a result, bargaining unit members should be encouraged to participate in the vote.

9. What is a strike?

The Labour Relations Act defines a strike as "a cessation of work, refusal to work or to continue to work, by employees in combination or in concert or in accordance with a common understanding, or slow-down or other concerted activity on the part of employees designed to restrict or limit output."

10. When is a union in a legal strike position?

After the parties have met with a Conciliator, if they have not been able to settle all outstanding matters, the Conciliator will report this to the Minister of Labour. Typically, the Minister then issues a "No-Board Report". The union is in a position to commence a legal strike at 12:01 a.m. on the 17th day after the date on the No-Board Report. If it is known that a particular bargaining unit is in a legal strike position, the University will communicate the relevant date.

11. Is a union permitted to picket during a strike?

Yes. During a strike, the union will often form picket lines at the organization's entrances. Picketers are legally permitted to carry signs stating the nature of the dispute, speak to people entering the property about their concerns, and ask people entering the property to join the picket line. However, picketers are not permitted to: Picket on organization property; Blockade access to the organization; Use force, threats, or threatening gestures to prevent people from coming onto organization property, including students, any employee wanting to attend at work and visitors; Otherwise engage in unlawful behaviour.

13. Can the organization request a vote of employees on the organization's final offer?

Yes. Any time (before or after the commencement of a strike), the organization may ask the Minister of Labour to direct a vote of the employees in the affected bargaining unit as to their acceptance or rejection of the organization's final offer on all matters remaining in dispute. Upon the receipt of such a request, the Minister must direct that a vote to accept or reject the organization's offer be conducted. The vote is supervised and conducted by Ministry of Labour officials and the result of the vote is public.

14. The organization and University have reached a "Tentative Agreement". What does this mean?

The organization and the union have agreed to the terms of a collective agreement, but the terms have not yet been agreed to ("ratified") by the bargaining unit members or the organization's governing body.

15. What is "Ratification"? How does this work?

Ratification by the union is the process by which members of the bargaining unit vote to accept or reject the terms of the collective agreement that the organization and union have negotiated. The ratification vote happens at the end of collective bargaining, after the organization and the union have reached a tentative agreement. All members of the bargaining unit have the right to vote. Each person gets one vote. The vote must be conducted by secret ballot. The collective agreement is considered "ratified" by the bargaining unit if a majority (50% +1) of those voting vote to accept the terms of the tentative collective agreement. A collective agreement is ratified by the organization, when the tentative agreement is approved by the Board of Governors. Once both parties have ratified the tentative collective agreement, it is finalized and implemented.