



# **CUPE 3902 Bargaining**

**The process and our (usual) timeline**

# CUPE3902 COLLECTIVE BARGAINING PROCESS

## PREPARATION FOR BARGAINING

Members elect a bargaining team, who engage in membership outreach (including a survey & consultation meetings) and research. Based on information gathered, a proposed bargaining platform is presented to the membership for debate, amendment and approval.

## BARGAINING BEGINS

## BARGAINING

Prior to the expiry of the Collective Agreement, either party may give notice to bargain. Bargaining begins within 15 days of the notice being served.

## UNSUCCESSFUL

## STRIKE VOTE

The Executive decides if and when to conduct a strike vote. The vote is conducted by secret ballot. A legal strike may only occur if a majority of votes cast are in favour of strike action. A strike vote may occur before or after conciliation.

## BARGAINING CONTINUES

## CONCILIATION

The Minister of Labour appoints a Conciliation Officer upon either party's request for assistance. Conciliation may be one or multiple meetings, depending on progress.

## UNSUCCESSFUL

## 'NO BOARD' REPORT REQUEST

Either party may ask the Minister of Labour to issue a 'no board' report. Once issued, a 'no board' report triggers a 17-day countdown which ends with the parties being in a legal strike/lockout position. During the 17-day countdown, the Minister of Labour appoints a mediator to facilitate discussions.

## UNSUCCESSFUL

## STRIKE / LOCKOUT

17 days after the 'no board' report, the parties are in a legal strike/lock out position. During this period, negotiations between the parties may continue regardless of whether the union is on strike or locked out.

TENTATIVE AGREEMENT MOVES TO

## RATIFICATION

Both parties must ratify the tentative agreement, before it comes into effect. CUPE 3902 has a two-step ratification process.

First, at a membership meeting, attendees decide by secret ballot whether to refer the tentative agreement to the membership. If approved, a Ratification Vote is held by secret ballot. Both votes require a majority of votes cast to be approved.

If the membership votes 'no' at either step, the bargaining team asks the University to return to the bargaining table.

## SUCCESSFUL

## ENFORCEMENT

Once ratified by both parties, the terms of the newly negotiated Collective Agreement come into effect. The new collective agreement is then implemented and is enforceable.

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## UNSUCCESSFUL

## STRIKE / LOCKOUT

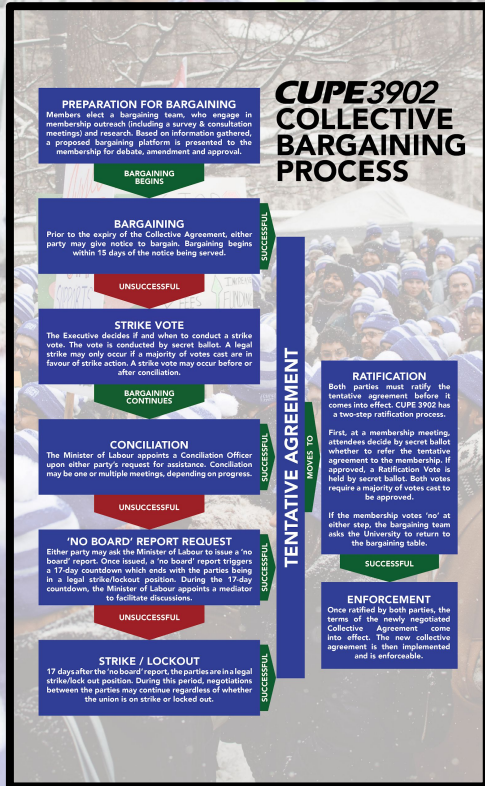
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SUCCESSFUL

SUCCESSFUL

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# How We Bargain



- Ontario's *Labour Relations Act* (LRA) and CUPE 3902's bylaws guide the collective bargaining process
- It can look confusing and intimidating, but that's because the government and employers want it to appear that way
- Your union is here to make it easy to navigate!

# Preparation for Bargaining



## PREPARATION FOR BARGAINING

Members elect a bargaining team, who engage in membership outreach (including a survey & consultation meetings) and research. Based on information gathered, a proposed bargaining platform is presented to the membership for debate, amendment and approval.

- We set up a BSC.
- Bargaining Team elected: 3 Feb
  
- Consultation process: 5 Aug – 11 Sept
  - Online survey and departmental consultations

# Preparation for Bargaining



## PREPARATION FOR BARGAINING

Members elect a bargaining team, who engage in membership outreach (including a survey & consultation meetings) and research. Based on information gathered, a proposed bargaining platform is presented to the membership for debate, amendment and approval.

- Bargaining Team analyzes responses and feedback, and proposes bargaining platform that addresses your collective priorities
- Platform provides political direction to develop bargaining proposals at the negotiating table

# Preparation for Bargaining

## PREPARATION FOR BARGAINING

Members elect a bargaining team, who engage in membership outreach (including a survey & consultation meetings) and research. Based on information gathered, a proposed bargaining platform is presented to the membership for debate, amendment and approval.

- Proposed bargaining platform discussed and debated at unit meeting
- Opportunity for amendments before vote
- This is **your collective agreement** and it determines **your working conditions**
- **You** decide what **your workplace** looks like
- **You must participate** for the consultation to be meaningful and for **your voice** to be heard
- At a **minimum**, this means **filling out the survey** and **participating in departmental consultations**

# Bargaining

## **BARGAINING**

Prior to the expiry of the Collective Agreement, either party may give notice to bargain. Bargaining begins within 15 days of the notice being served.

- Current Unit 1 Collective Agreement expires 31 Dec
- “Notice of desire to bargain” can be made within 90 days of expiry (3 Oct - 31 Dec)
- Bargaining begins within 15 days of that notice
- Expired Collective Agreement enforced until a new one is reached

# Bargaining



## **BARGAINING**

Prior to the expiry of the Collective Agreement, either party may give notice to bargain. Bargaining begins within 15 days of the notice being served.

- Process of bargaining lasts several months
- We are in bargaining until we ratify a new Collective Agreement some time in the new year



# Strike Vote

## STRIKE VOTE

The Executive decides if and when to conduct a strike vote. The vote is conducted by secret ballot. A legal strike may only occur if a majority of votes cast are in favour of strike action. A strike vote may occur before or after conciliation.

- Strike vote is an optional measure
- Held at discretion of Executive Committee
- Done by secret ballot
- It is not a fixed step in bargaining process
- Conciliation: A process by which a trade union or an employer can ask the Ontario Ministry of Labour for help in resolving their differences so that they can reach a collective agreement.
- Can happen before or after conciliation, within 30 days or less of expiry of Collective Agreement (2 Dec or later)

# Strike Vote



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- A strike vote is necessary in order to put the Local in a **legal** strike position
- LRA prohibits strike action unless majority votes “yes”
- “Yes” does not mean you are going on strike: decision to go on strike or not comes later!

# Strike Vote: Why Should I Vote “Yes”?

## STRIKE VOTE

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- The point is that a **“Yes”** vote gives Bargaining Team leverage
- U of T wants to avoid a strike; Administration and Governing Council take your demands more seriously if they think you are willing to go on strike
- **“Yes”** also gives you the option of going on strike if you cannot reach a Tentative Agreement or if the Tentative Agreement does not meet your needs

# Strike Vote: Why Should I Not Vote “No”?

## STRIKE VOTE

The Executive decides if and when to conduct a strike vote. The vote is conducted by secret ballot. A legal strike may only occur if a majority of votes cast are in favour of strike action. A strike vote may occur before or after conciliation.

- “No” communicates to U of T that you are not willing to strike, no matter how poor their offer is
- Disincentivizes U of T from taking your demands seriously and negotiating a fair agreement
- “No” puts you in a vulnerable position
- Rather than negotiating gains, Bargaining Team may have to bring concessions to membership

# Conciliation



## CONCILIATION

The Minister of Labour appoints a Conciliation Officer upon either party's request for assistance. Conciliation may be one or multiple meetings, depending on progress.

- If Bargaining Team and U of T arrive at impasse, either can request Conciliation
- Minister of Labour appoints Conciliation Officer, who works with both parties to reach a Tentative Agreement
- The conciliator cannot require the parties to agree on anything, and has no decision-making power.
- Either party may ask the Minister to appoint a conciliator.
- The parties are not legally allowed to strike or lock out until after they have met with a conciliator and a 'no board' report has been issued by the Minister.

# Conciliation



## CONCILIATION

The Minister of Labour appoints a Conciliation Officer upon either party's request for assistance. Conciliation may be one or multiple meetings, depending on progress.

- If successful, Bargaining Team and U of T will arrive at Tentative Agreement
- Will go to unit membership for approval
- If unsuccessful, move to next step
- Conciliation is necessary for you to be in a legal strike position, should it come to that

# “No-Board” Report

## ‘NO BOARD’ REPORT REQUEST

Either party may ask the Minister of Labour to issue a ‘no board’ report. Once issued, a ‘no board’ report triggers a 17-day countdown which ends with the parties being in a legal strike/lockout position. During the 17-day countdown, the Minister of Labour appoints a mediator to facilitate discussions.

conciliation was unsuccessful, Bargaining Team or U of T can request “No-Board” report from Minister of Labour

- NBR is a notice that the government will not appoint a conciliation board to settle a collective bargaining dispute. This notice may set the time when a legal strike or lockout can happen.
- “No-Board” triggers 17-day countdown
- Seventeen calendar days after the date that the ‘no board’ report has been issued, which typically takes 3-5 business days following the request of the University and/or the Union to issue, the parties are legally allowed to strike or lock out.
- Both parties meet with a mediator
- Both parties focus on major points of contention and shelve non-priorities

# “No-Board” Report



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- If parties reach Tentative Agreement in mediation, it will go to membership for approval
- If parties fail to reach Tentative Agreement, we are in a legal strike / lockout position after 17-day period



# Strike / Lockout



## STRIKE / LOCKOUT

17 days after the 'no board' report, the parties are in a legal strike/lock out position. During this period, negotiations between the parties may continue regardless of whether the union is on strike or locked out.

- Once parties are in legal strike / lockout position, you can go on strike at any moment
- A refusal by the employer to allow employees in the bargaining unit to work. Legally, the employer can only lock employees out after conciliation has taken place and seventeen calendar days have passed since a 'no board' report has been issued..
- Timing depends on circumstances
- U of T could lockout members
- Negotiations can continue during this period

# Tentative Agreement

A crowd of people, likely students, wearing blue and white striped winter hats with pom-poms. Some are holding signs, one of which says "FEES". The scene is outdoors in a snowy environment.

## TENTATIVE AGREEMENT

- Tentative Agreement is a proposed Collective Agreement agreed to by Bargaining Team and U of T
- Still requires your approval
- Bargaining Team and U of T can arrive at a Tentative Agreement at any stage in bargaining

# Ratification Vote

## RATIFICATION

Both parties must ratify the tentative agreement before it comes into effect. CUPE 3902 has a two-step ratification process.

First, at a membership meeting, attendees decide by secret ballot whether to refer the tentative agreement to the membership. If approved, a Ratification Vote is held by secret ballot. Both votes require a majority of votes cast to be approved.

If the membership votes 'no' at either step, the bargaining team asks the University to return to the bargaining table.

- Tentative Agreement has to be voted on
- Two-step process
  1. At a unit membership meeting (called an ascension meeting), you decide by secret ballot whether to send to 'entire' unit membership for vote or reject at meeting
  2. If approved, Ratification Vote is held by secret ballot, where 'all' unit members vote
- Simple majority for both votes
- If unit members reject at either step, Bargaining Team asks U of T back to negotiation table
- May or may not be on strike / locked out

# Enforcement



## ENFORCEMENT

Once ratified by both parties, the terms of the newly negotiated Collective Agreement come into effect. The new collective agreement is then implemented and is enforceable.

- Once Tentative Agreement ratified by You and U of T, it becomes the new Collective Agreement

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**Questions?**

# Glossary of Terms

- **Ascension meeting:** A meeting at which a motion to move onto a next step in collective bargaining is debated by the membership. For example, this Local holds ascension meetings to determine if strike votes and ratification votes will go to the unit's whole membership. If a motion to proceed fails at an ascension meeting, for example, a tentative agreement will not be presented to the whole membership for ratification
- **Bargaining platform:** A bargaining platform is the broad principles and needs identified by members that inform a given round of bargaining. The platform is based on the results of the bargaining survey and consultations, and will be the basis of bargaining proposals.

# Glossary of Terms

- **Bargaining Team:** Both the Local and the Employer have Bargaining Committees. The Employer appoints theirs, while the Union's team is elected by the membership at a General Membership Meeting. The Union's elected committee will be at the bargaining table and actively involved in drafting proposals and negotiating a contract. Also called a bargaining committee, the duties of the group are laid out in Article 14.1(b) of our Local's bylaws.
- **Collective Agreement:** A legally-binding written contract, arrived at through the process of negotiation, which covers the employee's wages, hours, and terms and conditions of employment. A written agreement between the Union and the Employer is for a definite term, defining conditions of employment (wages, hours, benefits, working conditions, etc.) rights of employees and the processes for resolving disputes or handling issues that arise during the term of the agreement.



# Glossary of Terms

- **Conciliation:** A process by which a trade union or an employer can ask the Ontario 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, they must use the government's conciliation services before they can get into a position to engage in a strike or lock-out.
- **Intent to bargain:** In order to renegotiate the terms of the collective agreement, either party must serve formal notice in writing to the other party of an intent to bargain. According to our CAs, this can be done within 90 days prior to the expiration of a CA, and after notice is served, bargaining is to begin within 15 days.

# Glossary of Terms

- **Lock-out:** A lock-out occurs when an employer closes a workplace, suspends work or refuses to continue employing a number of employees during a labour dispute. Legally, this can only be done at the end of the 17 day “cooling off” period after conciliation has failed and the conciliation officer has filed a “no-board” report.
- **Mediation:** If the parties have not reached a settlement in the conciliation stage, the ministry continues to offer the services of a mediator who will confer with the parties and endeavour to effect a collective agreement. This is referred to as the mediation stage, a process by which a third party attempts to help a trade union and an employer in reaching a collective agreement. Since mediation is discretionary, the service is only used if both parties agree to it.

# Glossary of Terms

- **Proposals:** The Union submits proposed language as additions, deletions or amendments to the Collective Agreement. This language is informed by the priorities set out in the platform, as well as by trends in the sector and the workplace.
- **Ratification:** 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 university and union have negotiated. The ratification vote happens at the end of collective bargaining, after the university 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 accept the terms of the tentative collective agreement.

# Glossary of Terms

- **Strike:** According to the Ontario Labour Relations Act, “strike” includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slow-down or other concerted activity on the part of employees designed to restrict or limit output. There are several preconditions to get into a legal position to strike or lock-out:
  - If an employer and union are party to a collective agreement, the agreement must have expired.
  - In the case of a strike, a strike vote must have been held.
  - A Conciliation Officer must have been appointed and a "no-board" issued.

# Glossary of Terms

- **Strike deadline:** The date after which a Union can commence legal strike action. According to Ontario's "Labour Relations Act," this is 17 days after the conciliation officer has "booked out." This Local has a practice of having bargaining units set their own strike deadlines which are separate from the legal deadline.
- **Strike mandate:** When the bargaining team has been given the power to initiate job action should conciliation fail, as determined by a secret-ballot vote of the bargaining unit. A successful strike mandate vote is a necessary requirement for legal strike action. This Local has a practice of consulting with members in other ways before job action can begin.

# Glossary of Terms

- **Strike vote:** Employees cannot lawfully strike unless a strike vote by secret ballot is taken within 30 days of the collective agreement expiring or at any time after the agreement expires, and more than 50 percent vote in favour of the strike. With a first collective agreement, the vote must be conducted after the appointment of a conciliation officer. A strike vote must be by secret ballot and all people eligible to vote must have ample opportunity to do so. All employees in a bargaining unit, whether or not they are trade union members, are entitled to participate in such a vote.
- **Tentative Agreement:** A tentative agreement means the university and the union's negotiating teams have agreed to the terms of a collective agreement, but the terms have not yet been agreed to by the bargaining unit members or the university's governing body.