

Frequently Asked Questions: Strike and Lockout

No responsible union enters negotiations with the intention of going on strike (or lockout), but the APUO would be remiss in its duty to represent its members and further their goals to the maximum extent provided by labour law if we did not plan for the possibility of a strike.

Strike preparedness sends a strong message to the employer about the unity and conviction of members of the bargaining unit. It also sends an unequivocal message that the membership stands behind its Bargaining Team.

While the APUO continues to bargain in good faith with the employer with the goal of reaching a fair and equitable collective agreement, our members need to begin preparing in earnest for the possibility of a strike or lockout. The employer filed for conciliation on Friday, June 7, 2013. A conciliator was appointed by the ministry of Labour on June 21, 2013. A three-step (bargaining, conciliation, and mediation) agreement between the APUO and the employer was signed on June 24, 2013. In keeping with this agreement, the days scheduled for bargaining before the arrival of the conciliator were used as planned (the last two days being July 4 and 5). Conciliation sessions were held July 10 and 12. Contrary to the was was agreed at the end of the second day, i.e. to keep the conciliation process open, the employer requested a No Board report a week later, on July 19, triggering the legal and rigid countdown towards a unilateral re-writing of the collective agreement by the employer, a lockout imposed by the employer, or an APUO strike, as early as August 8th.

The following FAQs provide important background information, address basic logistical questions about the strike/lockout process, and make recommendations for personal strike/lockout preparations.

What is a lockout?

A lockout occurs when the employer denies access to the workplace in order to exert pressure on the union and its members to settle on the employer's terms. Lockouts have been rare in the university sector in Canada. There has never been a lockout at the University of Ottawa.

What is a strike?

A strike is a collective action by employees to stop or curtail work. Legal strike action is a means by which unionized workers demonstrate the collective concerns and resolve of the bargaining unit. A strike is not an end in itself, but rather a means to obtaining a fair and equitable settlement. Legal strike action does not happen overnight and it is not a decision that is taken lightly. Even partial refusal of duties, such as refusal to turn in marks or participate in administrative meetings can be considered a strike. If a union has not held a strike vote and called a strike the union would be subject to penalties.

What are the legal conditions for strike action?

1. The collective agreement must have expired;
2. A Conciliation Officer must have been appointed and a No Board report issued;

3. A strike vote must have been held.

As APUO members know, the collective agreement expired on April 30, 2012. As aforementioned, the employer filed for conciliation on June 7, 2013, the conciliator was appointed on June 21st, and the employer requested a No Board report on July 19, 2013, after two days of conciliation. A lockout or a strike may be called 17 calendar days after the No Board is filed (in our case July 22), which takes us to August 8, 2013. The employer can impose a lockout anytime from then on, just as it can unilaterally rewrite the collective agreement. Before APUO can call a strike, members must vote in favour of it.

What is a strike mandate?

A strike mandate is when members of a union, by voting 'yes' to a specifically worded strike vote, give their Executive Committee the authority to call a strike *if and when the Executive Committee decides it is absolutely necessary. The vote itself does not trigger a strike, however.* A strike is triggered only if the Executive Committee decides it is necessary (e.g. to stop an employer lockout; stop the employer from unilaterally rewriting the collective agreement).

The primary purpose of a strike mandate is that it sends a strong signal to the employer (and in our case the mediator) that the negotiating team has the full confidence and support of the members. A strike mandate is a negotiating tool, permitted by labour law, to put the maximum pressure on the employer to bargain in good faith and come to a fair and equitable settlement with the union. It is the strongest expression of solidarity members can give to their Executive Committee and Negotiating Team to help them meet their members' goals and interests.

Does a strike mandate necessarily lead to strike?

No it does not. Many other faculty associations in Ontario universities have asked for (and received) a strike mandate in order to put their negotiating team in a position of strength for negotiations, and never went on strike. According to the information we received from OCUFA, in the last 5 years, 10 faculty associations in Ontario asked and received a total of 12 strike mandates from their members, and only 1 actually had to go on strike at some point later in the negotiating process. *A strike mandate leads to a strike only if and when the Executive Committee concludes that such a step is absolutely necessary.*

How and when does a strike vote happen?

A strike vote by secret ballot can take place 30 days before the collective agreement expires or at any time after. The APUO is in a legal position to call a strike vote at any time, but must give 5 working days notice according to our Constitution and Bylaws.

Who votes?

All members of the APUO are eligible to vote.

How do I vote?

The vote must be held by secret ballot and polls will be open immediately after the Special

General Assembly, which will be held Wednesday July 31, 2013, from 10:00 AM to 11:30 AM, at the Marion Auditorium (140 Louis-Pasteur on the main campus). Polls will be open (on July 31) from 11:00 AM to 6:00 PM.

Our Constitution and Bylaws make no provisions for advance voting, voting by proxy, or electronic voting. As such, after consultation with our internal legal counsel, external legal counsel, and CAUT, we were advised to hold the vote in the same way that the APUO holds the one other type of vote overseen by the Labour Relations Board: a ratification vote. In conformity with the law and our constitution, the APUO has always held this vote by secret ballot in conjunction with a Special General Assembly. We were advised that to conform with existing case law, voting should be open for at least 4 hours. Previous APUO ratification votes have been open between 4-6 hours. We have chosen to keep the vote open longer than that to create as much access as possible. Therefore voting will be open for 7 consecutive hours from 11h00-18h00.

The reason that the APUO has always held a Special General Assembly in conjunction with the ratification (and now strike) votes is for the same reason that CAUT recommends this approach: because it embodies an ideal deliberative democratic context where the elected and accountable Executive Committee explains the situation, the need for a strike mandate, and opens the floor to all members for questions, comments, discussion, and debate, before the polls are open. It is the only way for members to express before everyone their position on the strike mandate, and for the Executive Committee to be fully accountable to its members by answering all of their questions.

We understand that holding any type of strike mandate vote during the summer is far from ideal. This is one of the many reasons (including a belief that progress was being made) that the APUO has done everything in its power to keep open negotiations until more members were likely to be available in person. However, because the employer has decided to use legal means to force a conclusion to these negotiations in the middle of the summer, after only 3 months of bargaining and two days of conciliation, and there is no legal instrument available to the APUO to stop this, we have no choice but to hold such a vote now.

What constitutes a successful strike vote?

A successful strike vote is when more than 50% of the valid ballots are in favour of a strike. If 200 members exercise their right to vote and no ballots are spoiled, 101 or more valid 'yes' votes in favour of a strike constitute a successful strike vote.

Why should I vote in favour of a strike mandate?

There are many reasons that members should vote in favour of a strike mandate.

- In these circumstances (e.g. with an employer who is bargaining in a very aggressive manner), it is the only way to help the negotiating team to get a fair and reasonable deal by signaling clearly to the employer and the mediator that the membership is serious. Without a strike vote, neither the mediator nor the employer has much incentive to offer the best deal possible;

- The consequences of a no vote are very serious. A ‘no’ vote would tell the employer and mediator that they can ignore the bargaining team and impose any settlement they want. It would potentially encourage the employer to refuse to negotiate a settlement and instead rewrite the collective agreement unilaterally and impose far harsher working conditions regarding salary, pension, tenure and promotion, workload, etc.;
- Because of these facts, successful strike mandate votes are regularly held at many Ontario universities. As mentioned, in the last 5 years, 12 successful strike votes were held by 10 different unions, precisely because a strike mandate vote is what is required to get the employer to take the union’s negotiating team seriously;
- Strike mandate votes rarely actually lead to strikes. As mentioned above, of the 12 successful strike votes, only 1 turned into a strike. And that lasted for only 11 working days;
- The cost of a strike, while significant and inconvenient in the short term, is usually manageable given strike pay and financial institutions’ policy allowing for temporary suspensions of payment when locked out/on strike. In contrast, when one considers the gains that a strike vote can make at the, lost pay due to a strike becomes a rational investment. While the ‘strike investment’ is a one time expense, the ‘strike dividend’ pays off each and every year until one retires. For an illustration, please see the document «Why Vote YES to a Strike Mandate?», also on the APUO’s website.

When we would go on strike?

In theory, after a successful strike vote is achieved, the Executive Committee may call a strike if (a) the union is in a position to legally strike and (b) it is believed to be absolutely needed. In the present case, because of the protocol we signed and the timing of the conciliators’ request for a No Board, the earliest date the APUO would be in a legal position to strike (and/or be locked out) is August 8. Moreover, this would take place on August 8 only if mediation, conciliation, and last minute bargaining had failed to reach a negotiated settlement and the Executive Committee was convinced it was necessary to go on strike to prevent a lockout and/or unilateral rewriting of the collective agreement.

How do I prepare for a strike or lockout?

For the most part (with important exceptions to access critical services and attend to lab materials that must be cared for, etc), you will largely be unable to access your office or campus facilities during a strike or lockout. In the coming days we will be distributing a detailed overview of some of these issues.

How much will I get paid during a strike?

Members who perform 3.5 hours of strike duty per day will be paid \$125 per day, for a total of \$625 per week. It is important to note that this is *non-taxable*. Given it’s non-taxable nature, the cost to individuals of going on strike is less than you might think. If your annual salary is \$100,000 and you are taxed at a combined rate (federal and provincial) of approximately 30%, your weekly after-tax pay is \$1,458. When you factor in that the APUO has proposed to the

employer that it will also pay the cost of member's normal benefits (which would on average take off another \$88 according to the employer), that means the real difference between take home pay and strike pay for someone making \$100,000 is approximately \$750 per week. Because the income tax rate is higher in Québec than in Ontario (about 5 points of percentage more), the difference between take home pay and strike pay is smaller for those who reside in Québec.

This is certainly not insignificant. But when one considers that financial institutions will temporarily suspend the mortgage payments of individuals on strike (the APUO will inform mortgage providers and provide form letters for individuals to use to submit their requests if a strike or lockout is called) and that the only faculty strike in the last 5 years in Ontario lasted only 11 working days, the cost of going on strike is likely not an insurmountable barrier.

What if I am unable to walk the picket line?

There are a number of support roles and alternative ways to perform strike duty in addition to walking on the picket line. Contact the Strike Committee to arrange for alternative strike duty.

What if I am on leave when a strike is called?

Members who are on approved leaves are not considered on strike. Members who are on approved leave but wish to be considered on strike must advise the employer of this fact. A copy of the letter to the employer should be provided to the Strike Finance Committee.

What will happen to my benefits during a strike?

The APUO has tabled a strike protocol to guarantee the continuation of benefits such as Extended Health and Dental. As mentioned, the APUO has also proposed to pay for these benefits. The employer has not yet responded.

Will I have access to campus facilities during the strike?

Normally no. The purpose of a strike is to withdraw our labour from the University. All duties performed on campus such as teaching, research, administrative, and supervisory activities must be withdrawn during a strike. Those members who need to access campus to tend to live experiments, undertake absolutely essential work on ongoing experiments (e.g. calibrate machinery), or to access the day care can obtain strike passes by contacting the Strike Committee. Members are expected to not use campus facilities such as the library or the gymnasium during the strike.

How long could we be on strike?

It is impossible to predict how long a strike would last. The bargaining teams would continue to meet during the strike with the aim of coming to a fair and equitable agreement as quickly as possible. Technically, a strike would end when a new collective agreement is ratified by the members, after a ratification vote.

The one faculty association that actually went on strike in Ontario over the last 5 years was out

for only 11 working days. In our circumstances, if there was to be a lockout or strike at some point in August, both parties would have very strong incentives to come to an agreement before the strike impacts the Fall term.

Resources:

While your negotiating team is doing its utmost to get a good agreement for APUO members, we encourage you to stay informed about negotiations by reading the [Bargaining Bulletins](#).

[FAQ on Strike and Lockout](#)