

THE UNION ADVANTAGE

Know Your Rights | A project of the Global Labour Research Centre | York University

Know Your Rights Factsheets Series

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Know Your Rights!

Most workers in Ontario are protected under the *Ontario Labour Relations Act*. You can file a complaint with the Ontario Labour Relations Board if your employer:

- Threatens to fire or punish you for organizing a union
- Threatens to shut down the business if a union is formed
- Prevents union organizing during non-working hours
- Questions you about union matters

What is a union?

- Under the *Ontario Labour Relations Act*, a union is defined as an organization of employees who come together to regulate the employment relationship. Unions provide workers with a means to protect and advance their collective interests in the workplace. Unions also engage in struggles for political and social equality beyond the workplace.

What do unions do?

- They ensure that workers have a say in the terms and conditions of their work.
- They negotiate collective agreements that promote fairness and dignity for workers by limiting the employer's ability to act unilaterally.
- They counter employer power in the workplace by bringing workers together to bargain collectively and act in solidarity.

What are the benefits of unions?

- Unionized jobs provide higher wages than non-unionized jobs.
- Unionized jobs offer greater job security than non-unionized jobs.
- Unions improve access to important benefits: unionized workers are more likely to be covered by dental or medical plans, and to be provided with pension plans and financial protection against the costs of ill health.
- The majority of collective agreements in Canada cover paid overtime, paid holidays, severance pay based on years of service, and restrictions on contracting out work.

What is a Collective Agreement?

- The collective agreement forms the “law” of the workplace that must be followed by both employers and workers. Without them, employees must negotiate individual contracts with employers, who will often attempt to dictate the terms of employment.

Some statistics...

In 2015, the total number of workers paying dues to a union in Canada increased, making up **31.8% of all employees in Canada**. National and international unions represent almost 95% of unionized workers, while directly chartered local and independent local unions made up 69.9% of all unions. **At the end of 2015, the total number of unions in Canada stood at 776.**

The Union Wage Advantage

Research shows that unionized workers earn higher wages than non-unionized workers, something referred to as the “union wage advantage.” For example, in 2009, the average unionized childcare worker’s hourly wage was \$19.78, while their non-unionized counterparts earned \$12.08. Collective agreements also often contain non-wage benefits, such as pension plans, health insurance and paid time off, all of which contribute to the union wage advantage. For example, 78% of unionized workers have access to a dental plan, compared to 50% of non-union workers. It is important to note that the union wage advantage is greatest for lower skilled, less formally educated, younger and less experienced workers, as well as women and workers of colour.

Common misconceptions about unions

• Workers are forced to join a union

If you work in a unionized environment, you do not have to join the union; but all workers, not just members, benefit from the collective agreement so all must contribute through dues.

• The union will make you go on strike

The vast majority of union contracts are negotiated without a strike. When contract agreements cannot be reached, the union will take a strike vote with its membership.

• Unions make demands that are unreasonable

Unions make their demands based on the needs indicated by their membership, which are often linked to keeping up with the cost of living.

• Unions are no longer needed

Unions renew themselves to seek further employment improvements. In recent years, unions have made efforts to bargain better conditions for part-time workers (e.g. scheduling) and have supported campaigns to improve wages for workers in precarious jobs (e.g. Fight for \$15 and Fairness).

• Unions protect people who should be fired

Unions try to ensure that proper procedures are followed when disciplining or dismissing an employee. The union and the collective agreement do not force employers to keep workers who are not competent for their job.

• Unions are pale, male, and stale

There is still a lot of work to be done; but unions continue to secure greater participation and representation of women, racialized workers, persons with disabilities, and young people. Women and young people generally earn significantly more and are paid more fairly in jobs covered by collective agreements.

Strikes & Lockouts

A **strike** is a general withdrawal of services by the members of the union because they do not wish to accept the employer's offer of a collective agreement. Strikes happen over wages, pension, benefits, health and safety conditions, job security, and many other issues. A strike cannot happen unless the members vote to call a strike.

A **lockout** is when an employer refuses to allow union members to come to work unless they accept a proposed collective agreement. This is an attempt to force workers to accept undesirable terms, or to make compromises.

There are few strikes or lockouts in Canada. Over 95% of all negotiations end without work stoppage.

Collective Bargaining Highlights

Monthly or quarterly reports of collective bargaining and major wage settlements in Ontario are available for public viewing here: <https://www.labour.gov.on.ca/english/lr/pubs/>

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Conciliation is a process by which a union or employer can ask the Ontario Ministry of Labour for help in reaching a collective agreement. Applicants must complete a request and forward it to Dispute Resolution Services. The conciliation officer acts as a mediator who will confer with both parties. This service can only be offered if both parties agree.

Do all employees have the right to strike?

Not all workers have the right to strike, even if they have the right to unionize. Employees of hospitals and nursing homes and the Toronto Transit Commission do not have this right, and instead resolve and settle bargaining issues through binding arbitration that is covered in the Hospital Disputes Arbitration Act and the TTC Labour Disputes Resolution Act, 2011. Fire fighters and police have their own legislation and are not subject to the Labour Relations Act, 1995. Both the Fire Protection and Prevention Act, 1997, and the Police Services Act place an outright ban on strikes and lock-outs. The Ontario Ministry of Labour and the Ontario Ministry of Community Safety and Correctional Services are responsible for bargaining under these respective acts.

What is arbitration?

Arbitration is a quasi-judicial process in which a third party hears evidence presented by the union and the employer about a dispute, and makes their own binding decision. The arbitrator acts like a judge or court, holding hearings and evaluating evidence. **Grievance arbitration**, also known as rights arbitration, is a mechanism to solve disputes about employer interpretation and application of the collective agreement during employment. A **grievance** is a written complaint that alleges the contravention of the collective agreement. In any situation where an employee or union feels that an employer is not following the terms of the collective agreement, they may file a grievance.



Public Sector Unions

Unions represent workers in a wide range of public sector occupations, including workers in government offices, health care, emergency services, education, early learning and child care, municipalities, social services, libraries, utilities, transportation, airlines, and other areas. 74.8 percent of workers in the public sector are unionized.



Private Sector Unions

Unions represent workers across the private sector, including in manufacturing and construction, transportation, energy and resources, retail and hospitality services. 16.7 percent of workers in the private sector are unionized.

Unions in society

Unions also play a broader role in social justice struggles.

They press for better social, economic and environmental practices.

They help to create a healthier and more stable democratic society, with higher productivity, and better economic security.

How to start a union

Starting a union can be a difficult process, especially if you face employer opposition:

- If you want to lead an organizing drive, you need to earn the trust and respect of your co-workers.
- Contact a union. Most unions supply a full-time organizer and resources to help you organize, including a lawyer in cases of employer intimidation.
- Master the “union conversation.” Co-workers might be skeptical of unions. Begin by talking outside of work to find out their concerns, and explain how a union could help to resolve workplace issues.
- After identifying key concerns, bring people together to form an organizing committee (OC). The OC should ideally include at least 10% of the workforce and reflect racial, ethnic, and gender diversity. It is important to have every department and shift represented in the OC to prevent employers’ divide-and-conquer strategies from working.
- Keep the ball rolling, as perseverance is key. Expect opposition and continuously brainstorm new ideas.
- The OC must educate co-workers about legal rights.
- Contact and speak with all employees. The process of moving from secretive OC to union should be done quickly.
- With the guidance of an organizer, you and your co-workers sign membership cards, and file them with the Labour Board once 40% of eligible workers have signed. A vote (secret ballot) is held at the workplace following the union application. If a majority of workers vote for the union, it is certified as a legal bargaining agent and representative.



Back-to-work Legislation

Canada has experienced an increased erosion of workers' rights to organize and engage in collective bargaining.

Since 1982, 218 pieces of legislation have been passed that restrict, suspend, or deny collective bargaining rights in Canada. Back-to-work legislation has been passed 19 times at the federal level and 71 times at the provincial level.

In Ontario, examples of this include the *Protecting the School Year Act* (2015), which prevents teachers' strikes from interrupting classes, and the *Agricultural Employees Protection Act, 2002*, which denies workers in small agricultural operations the rights to unionize.



Improving work outside of the workplace

Unions have been instrumental in making life more secure and equitable for everyone by advocating legal changes:

- The Public Service Alliance of Canada was the first union to have a conference specifically for workers with disabilities.
- Quebec's Federation de travailleurs were lobbying as early as 1975 for the inclusion of sexual orientation in the human rights code.
- The Ontario Federation of Labour was the first organization to include sexual orientation in its non-discrimination policies, and led the way in LGBTQIA lobby efforts outside the union movement.
- Unions improved workplace health and safety for everyone by lobbying for safety legislation like the *Occupational Health and Safety Act*.
- In the 1989 *Brooks v Canada Safeway Ltd* Supreme Court case, a union backed three part-time grocery store employees who were discriminated against on the basis of pregnancy.
- The Public Service Alliance of Canada won the largest damages award in Canadian history (\$3.6 billion) in a pay equity case for women workers against the federal government.

For More Information and Support

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<http://glrc.apps01.yorku.ca/know-your-rights-2/>

Ontario Federation of Labour

ofl.ca | 416.441.2731

Ontario Labour Relations Board

www.olrb.gov.on.ca | 416.326.7500

Osgoode Hall Community and Legal Aid Services Programme, Employment Law Division

<http://www.osgoode.yorku.ca/community-clinics/welcome-community-legal-aid-services-programme-clasp/> | 416.736.5029

Toronto Workers' Action Centre

www.workersactioncentre.org | 416.531.0778

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