

National Executive Board Policy on Collective Bargaining: Resisting Concessions and Two-Tier Proposals, and Defending Free Collective Bargaining – Moving Forward

CUPE's primary responsibility is in bargaining and collectively representing members in their workplace. Collective bargaining is at the core of all of our work. Our main goal is to improve wages, working conditions, job security, and other conditions of all workers, and the pensions and benefits of retirees. These goals are achieved mainly through collective bargaining and political action.

During his address at CUPE's inaugural convention, Brother Stan Little told delegates that the need to achieve full collective bargaining rights for all employees, at all levels of government, was of paramount importance. While much has changed since that 1963 National Convention, public services, and the employees who deliver them are still under attack.

Politicians and administrators continue to blame workers for inefficiencies and costly delivery of public services, but we know the blame rightly lies with those very same politicians and administrators who pursue privatization and believe that the real saviour is corporate Canada.

Legislative attacks on free collective bargaining continue. Over the last two decades, we have seen legislation that restricts our ability to take meaningful action when faced with concession bargaining. We have seen legislation that stripped language from our collective agreements, curtailed our bargaining rights, set out strict essential service levels, and imposed settlements. Recent Supreme Court decisions have protected our Charter rights to free collective bargaining, and CUPE will continue to defend free collective bargaining and our members' collective agreements in the courts, as necessary.

We continue to face an austerity agenda at the bargaining table, driven by an unfair and increasingly regressive tax system. Successive governments have prioritized corporate tax cuts, lowered income tax rates for the richest Canadians, expanded tax loopholes, and ignored the existence of tax havens. In doing so, they have dramatically reduced their own revenue, money needed to pay for the quality public services that benefit all Canadians. Canadian governments continue to cut public services while further cutting corporate taxes. The right thing to do, and the way to invest in much-needed public services, is to restore corporate taxes to a fair level.

Employers are using divisive tactics at the bargaining table – not just proposing concessions, but advancing proposals that would see members, working side-by-side, being paid different rates of pay, with access to different benefits, and even different pensions upon retirement. Employers are also proposing more precarious jobs and increasing the precarity of existing jobs.

Workers did not join CUPE in order to move backwards, to lose wages or benefits, or lower their working conditions. They joined our union so they could move forward, with a better work life, more secure employment, and safe working conditions. CUPE and its Local Unions have an obligation to our members to resist concessions, two-tier contract provisions, and precarious work. If a contract provision is not good enough for our current members, it is not good enough for the next generation of workers either.

Regressive bargaining techniques, which have a stronghold in the United States, have surfaced in Canada. Increasingly, in advance of a strike or lockout deadline, employers threaten to impose terms and conditions of employment on our locals and their members at the deadline. This move is a tactic aimed at forcing locals to accept some form of concessions, two-tier provisions, or an increase in precarious work. As a result, locals are forced onto a picket line and in some cases have even accepted the concessions.

At our 2003 National Convention, faced with similar pressures, we adopted an ambitious strategic program to build our collective strength and bargaining power. In 2005, Strategic Directions directed CUPE to put in place programs to win expanded rights for part-time and casual workers. CUPE's 2009 National Convention directed a more focused campaign on putting an end to the casualization of work and a renewed focus on implementing the National Executive Board's "Plan to Fight Concessions and Defend Free Collective Bargaining".

Delegates to our 2011 National Convention adopted a resolution to launch a broad-based campaign to fight the imposition of two-tier contracts with lower wages, benefits, and working conditions, including an education component that highlights the additional impact two-tier contracts have on youth, equity-seeking groups, and non-unionized workers.

A resolution was passed at our 2013 National Convention directing CUPE to send a strong and forceful message to all levels of government opposing concessionary bargaining and defending our free collective bargaining rights. In addition, Strategic Directions committed CUPE to deepen its policy of no-concession bargaining, reinforcing the National Union's "Plan to Fight Concessions and Defend Free Collective Bargaining". CUPE's policy that all negotiating committees make recommendations when presenting tentative agreements to the membership was made clear.

Our focus in the 2015 Strategic Directions is to attack precarity through organizing and collective bargaining. As well, 2016 was dedicated to renewing our commitment to health and safety. Members continue to face an increasing presence of violence and a rising tide of hate in their workplace. Negotiating strong contract language is the best way to protect our members and support our locals in their efforts to stop workplace violence and hate in all forms.

The National Executive Board's "Plan to Fight Concessions and Defend Free Collective Bargaining" was first adopted in June 2004, subsequently amended in March 2009, and reaffirmed by National Executive Board resolution in March 2013. As governments across the country impose austerity agendas, and employers show greater determination than ever to negotiate concessions and two-tier provisions, it is time for us to strengthen our support for locals and members facing attacks at the bargaining table.

This policy was updated in December of 2016 and the expanded version was rolled out across the country. The principles that it lays out have been confirmed in resolutions and Strategic Directions at each subsequent National Convention.

CUPE is at its strongest when we all work together. Our ability to defend collective bargaining rights, resist concessions and two-tier proposals, and move forward can only be accomplished when the National Officers, National Executive Board, chartered organizations, staff, and members work together to ensure the best possible outcomes.

CUPE locals and their members are best positioned to move forward at the bargaining table when they understand the issues, receive regular updates, and are motivated to mobilize quickly to any crisis.

This policy sets out the broad parameters of CUPE's plan to resist concessions and two-tier contract provisions and defend our rights to free collective bargaining. The mechanics of a regional plan will be worked out between the senior staff and elected leadership within each region.

Definitions

For the purposes of this policy the following definitions apply:

A concession occurs when a Local Union accepts an employer's demand for a lesser wage. A concession also occurs when a Local Union accepts an employer's demand for a lesser contract provision than previously agreed, without at least receiving a like benefit, or provision of higher value or importance in return.

A two-tier contract provision offers a lesser condition of employment for certain employees than for others performing the same work, based on their date of hire. Two-tier provisions are always considered a concession, regardless of what may be negotiated in return.

If there are any questions or disputes as to the application of these definitions the Regional Director will consult with the National President's Office for a final determination.

Regional Plans

1. Fighting concessions, resisting two-tier provisions, and defending free collective bargaining rights will require that the staff and elected membership structures of CUPE work together closely, particularly at the provincial level. Regional Directors will work with the provincial division(s) in their respective regions to develop a comprehensive plan to prepare against contract concessions and attacks on our bargaining rights.
2. The regional plan to fight concessions and resist two-tier contract provisions will set out specific actions and timelines, as well as roles and responsibilities, for the various chartered bodies involved. It will address, among other things:
 - strengthening members' resolve and preparedness to fight concessions and two-tier contract proposals;
 - effective member and external communications;
 - putting in place an effective coordinated bargaining plan for each specific region, sector, or the entire province (as appropriate), so that we can lead bargaining from a position of strength and are able to establish patterns without concessions or two-tier provisions;
 - development of the tools necessary to educate rank and file members on such matters as collective bargaining processes and the negative effects of concessions and two-tier contract provisions;
 - the elements necessary to mobilize members;
 - building solidarity among CUPE Local Unions and between CUPE and other unions, particularly through solidarity pacts and strike support; and
 - rapid and effective response mechanisms to deal with crisis bargaining.
3. The elected and staff leadership in each province will work closely together to put in place a process or structure that will allow for on-going joint monitoring of the plan's implementation. The plan will be adapted where and when necessary to respond to new situations and conditions. The elected leadership and staff coordinators from each of our sectors will be connected to this on-going planning and priorities structure. Plans may be amended over time and updates must be filed with the National Officers and the Managing Director of Organizing and Regional Services.
4. Whenever a Local Union encounters difficulty at the bargaining table that includes concessions, two-tier proposals, or a threat to free collective bargaining, the staff, in conjunction with the division and the appropriate District Council, will call an emergency meeting of all Local Union presidents in the area to begin developing a regional strategy, including member outreach and mobilization to fight the concessions.

5. In conjunction with our divisions, CUPE will move to mobilize our members and fully prepare for any potential assault on our collective agreements by obtaining membership approval to engage in political work stoppages when called upon to do so. In provinces where provincial governments are likely to take action against us, the Regional Director will work with their provincial division(s) on a plan to win membership votes for such political action and mobilize our members in support of such actions.
6. Regional Directors will file the plan with the National Officers and the Managing Director of Organizing and Regional Services. Plans will be reviewed and updated as needed, but at minimum every two years.

Solidarity Pacts

7. CUPE has a longstanding policy and practice to promote solidarity pacts between CUPE locals. These pacts will be revived and strengthened in provinces that have already established them and accelerated in all provinces where solidarity pacts have not yet been adopted. These pacts will clearly enunciate the commitments parties make to each other and what they mean for each of the participants.
8. The decision to build solidarity pacts between CUPE and other unions in each sector will be accelerated where necessary and, to this end, the National Officers will actively seek the assistance of other national union leaders to organize meetings of heads of unions on a sectoral basis (where appropriate) to build a common front of unions to coordinate bargaining and to fight concessions, two-tier proposals, and attacks on our bargaining rights.

Local Bargaining

9. Prior to, and well in advance of, the commencement of collective bargaining, Local Unions and bargaining councils shall work with servicing and resource staff to develop a strategic plan for bargaining that includes, where appropriate, elements of the Strategic Directions document adopted by the National Convention, and bargaining guides created by the National Union. This strategic plan will set out an education component for rank-and-file members, coordination within the sector as appropriate, and a communications plan to take the Local Union or bargaining council through to the conclusion of collective bargaining. The plan will provide details on member mobilization in support of bargaining proposals as well as resisting concessions and two-tier contract proposals. This mobilization should include direct outreach to members through one-on-one conversations and regular updates throughout the bargaining process. Communications plans should account for the role played by social media in spreading misinformation and build response mechanisms into the strategic plan.

10. Bargaining is a fluid process, and strategic plans for Local Unions and bargaining councils need to be constantly reviewed and amended where necessary to support a changing bargaining environment.
11. Our collective strength is a fundamental pillar of the power of local unions and the labour movement as a whole. CUPE will actively encourage efforts to consolidate our bargaining strength by coordinating bargaining at the local and sectoral level.
12. Far too many of our members are earning wages that have not kept pace with rising inflation and that are not sufficient to be able to address the increasing cost of living. It is crucial that these issues are addressed at the bargaining table. To that end, all Local Unions and bargaining councils are asked to consider the following when drafting bargaining proposals:
 - ensuring that all members are earning a living wage working with Research to determine current living wage rates in the relevant jurisdiction;
 - negotiating cost-of-living (COLA) adjustments;
 - negotiating flat rate increases, or hybrid flat rate/percentage increases, to more quickly address increases at the bottom of the wage grid and to close gaps on the wage grid over time;
 - ensuring a pension for all CUPE members;
 - where payments in-lieu of benefits exist ensuring that the percentage adequately provides for the benefits it is intended to replace;
 - increasing hours for part-timers, converting part-time positions to full-time and other measures to address precarity;
 - negotiating equity language to acknowledge that issues of precarity and affordability disproportionately impact equity-denied groups, including employment equity language to remove barriers to employment;
 - negotiating shorter durations for collective agreements to be able to better use our bargaining power to address the issues outlined above.
13. All Servicing Representatives must immediately alert the Regional Director or Assistant Regional Director whenever a Local Union or bargaining council becomes aware of proposed concessions, two-tier contract provisions, or a threat to free collective bargaining.
14. An immediate and coordinated response to these difficult bargaining situations will be organized by the Regional and/or Assistant Regional Director in full consultation with the Provincial Division Officers and, where required, the Managing Director of Organizing and Regional Services. The Managing Director of Organizing and Regional Services will alert the National Officers of the response, including any difficulty encountered in developing an emergency response initiative.

15. Where a strike or lockout is imminent, and at least one month prior to a strike or lockout deadline, training on strike fund access and regulations will be provided to those involved. The Regional Director or Assistant Regional Director will work with the Union Education Branch and the Servicing Representative to ensure timelines for this training are met. The Regional Director or Assistant Regional Director will notify the National Secretary-Treasurer's Office of any concerns related to strike readiness.
16. Negotiating committees **must** make recommendations to their members when presenting tentative agreements for ratification or rejection. The recommendation may be to accept or to reject the tentative agreement. Negotiating committees will not bring a tentative agreement for ratification with a neutral recommendation.
17. Servicing Representatives will immediately advise and seek guidance from their Regional Director or Assistant Regional Director when a Local Union is about to sign a tentative agreement that contains concessions, two-tier provisions, or will have a negative impact on a sector or other Local Unions. The Servicing Representative will not recommend, nor sign, any agreement that contains concessions, two-tier provisions, or will have a negative impact on other Local Unions or a sector.
18. The Regional Director or Assistant Regional Director will provide guidance to staff in these matters. Such guidance may include direction to stop the bargaining process, recommending the Local Union delay bargaining until a better pattern emerges in the region or the sector, or attending a membership meeting for the purpose of recommending the Local Union reject the tentative agreement.
19. The Regional Director or Assistant Regional Director must alert the Provincial Division Officers, the National Officers, and the Managing Director of Organizing and Regional Services when a Local Union is about to sign a tentative agreement that contains concessions, two-tier provisions, or will have a negative impact on a sector or other Local Unions.
20. Where all other avenues have been exhausted and it is clear that a Local Union or bargaining council is headed towards a tentative agreement that contains a concession, a two-tier provision or will otherwise have a negative impact on a sector or other Local Unions, the National Officers and Executive Board will exercise their powers under the constitution.

Bargaining Language

21. CUPE will work to provide generic contract language on the following topics which can be tailored to different sectors and different workplaces. Local Unions and bargaining councils will be requested to propose this language in bargaining.

22. CUPE takes seriously the growing incidences of violence in our members' workplaces. As part of moving forward, CUPE Local Unions and bargaining councils will table contract language that will protect our members against violence and support members who have been the victim of violence in their workplace. Employers have an obligation to take preventative measures, and we must ensure they do so.
23. Attacking precarious work and stopping precarity is an ongoing focus of our union. Each Local Union and bargaining council will propose language in bargaining which will halt the growing levels of precarious work in their workplaces.
24. Picket lines form an integral part of any strike or lockout, and respect for those lines is a critical demonstration of solidarity, both between locals and across the labour movement more broadly. Each Local Union and bargaining council will propose language, where it does not exist, to ensure members have the right to refuse to cross a picket line without disciplinary consequences.
25. The effectiveness of mobilization efforts is increased when members are able to dedicate time to outreach efforts and one-on-one conversations. Enhanced collective agreement provisions providing for union leave increase the ability of Local Unions and bargaining councils to dedicate time and resources to those mobilization efforts. Each Local Union and bargaining council will propose language to enhance union leave provisions.
26. Servicing Representatives will alert their Regional Director or Assistant Regional Director where a Local Union or bargaining council refuses to table the proposals outlined above. The Regional Director or Assistant Regional Director will then alert the Provincial Division Officers, the National Officers, and the Managing Director of Organizing and Regional Services. Senior staff will meet with these locals, accompanied by elected leadership as appropriate.

CUPE Actions

27. The National Officers will immediately affirm through public communications, and communications to all CUPE chartered organizations and staff, CUPE's determination to protect our collective agreement rights, to resist any demands for concessions or two-tier contract provisions, and to defend our right to free collective bargaining, including our right to strike.
28. We will take coordinated direct political action to defeat any government that attacks collective agreement rights and removes existing rights to free collective bargaining.

29. We will support our fight against concessions and the attack on collective bargaining through our on-going national campaign to strengthen communities and our campaign to fight back against privatization of public services. The objectives of this campaign include building political support for major public investment in the work and services performed by CUPE members; building membership pride in the work they do and in our union; and mobilizing against every instance and all forms of privatization.
30. We will defend our legal rights to collective bargaining through the Canadian legal system, as appropriate, and by organizing international pressure to enforce compliance with international protections established by the International Labour Organization and United Nations.
31. Organizing and Regional Services will review and update the “Strategic Bargaining and Strike Preparation” Manual for staff. A complementary manual for Local Unions will be developed.
32. The National President will provide the National Executive Board with quarterly reports on the progress of our efforts to fight concessions, resist two-tier contract provisions, and defend collective bargaining.
33. The National President will advise all staff of this policy, including discussing with them the role staff will be required to perform to ensure that the policy is successfully implemented. The National President will also advise Local Union of this policy and include it in his address to division conventions.
34. Union Education will work to ensure that this policy will be covered as part of bargaining and leadership training for members. Organizing and Regional Services will ensure that this policy is covered as part of training for staff.
35. We will work to allocate resources to support national bargaining strategies that seek to lift up the wages and working conditions for our lowest paid sectors, including support for coordinated sectoral bargaining.