

## Strike/lockout Q&A

September 19, 2017

Questions and answers about being on strike or lockout for OPSEU members in the College Academic Division.

### Part One: strike/lockout information

#### General

##### *Q1. Are we going on strike?*

Your OPSEU bargaining team is bargaining for a collective agreement, not a work stoppage. We'll go on strike only as a last resort.

##### *Q2. When could a strike or lockout happen?*

A strike can be called only after:

1. there is no collective agreement in operation between the Council and the employee organization that represents the employee;
2. a conciliation officer has made a report to the Minister of Labour under clause 7 (3) (b) to the effect that, despite his or her efforts, the terms of a collective agreement have not been settled and the Minister has informed the parties of the report by notice in writing in accordance with subsection 7 (4);
3. the members of the bargaining unit have voted in favour of a strike by a vote by secret ballot conducted under the supervision of and in the manner determined by the Ontario Labour Relations Board;
4. after a vote in favour of a strike in accordance with clause (c), the employee organization that represents the employee gives the Council and the employer written notice of the strike and of the date on which the strike will commence at least five days before the commencement of the strike; and
5. 16 days have elapsed after the date on the Minister's notice referred to in clause (b). [CCBA-2008, c. 15, s. 17 (1)]

It is important to note that a tentative agreement can still be reached at any point during this process.

It is also important to stress that the bargaining team never calls a strike lightly. It is only used when all other avenues for negotiation have failed and when the issues at stake are of sufficient importance.

## Strike Deadline

Where there has been a 'yes' to a strike vote the union has the authority to set a strike deadline with 5 days' notice to the employer. A strike deadline further increases pressure on the employer to reach a fair agreement.

### *Q3. Can bargaining continue after the strike vote?*

Yes. In most cases, both parties feel strongly motivated to bargain seriously when the clock is ticking towards a strike deadline.

### *Q4. If there is a strike, how will I know when it starts?*

Your bargaining team will communicate with all members throughout the bargaining process by email and through the bargaining website at [www.collegefaculty.org](http://www.collegefaculty.org).

### *Q5. Who will participate in a strike or lockout?*

If a strike or lockout happens, all bargaining unit employees – full-time and partial-load – are on strike.

### *Q6. If I'm an acting manager, will I participate in a strike or lockout?*

In the event of a strike or lockout, acting managers will be asked to return to the bargaining unit and will participate in the same way as all members of the bargaining unit.

## Strike pay and duties

### *Q7. How much is strike pay?*

Under OPSEU policy, strike pay is provided to members who complete strike-related duties assigned by their local strike committee. Only signed-up members are eligible to receive strike pay. Strike pay is not taxable.

Delegates at the 2016 OPSEU Convention voted for a substantial increase in strike pay.

During weeks one to three, each member is entitled to strike pay of \$40 per day (or \$200 per week). Each dependant is entitled to \$10 per day (or \$50 per week).

During the fourth week, strike pay increases and each member is entitled to \$60 per day (or \$300 per week). Dependant pay remains the same at \$50 per week.

A dependant is defined as:

- a non-income-earning spouse (excluding a spouse on strike);
- a child under 18 (or under 26 if attending school full-time) OR a dependant child as defined by the collective agreement or benefit plan;
- a disabled family member; or
- an elderly family member who normally receives financial support from the striking member.

If both spouses are on strike, both may claim the dependants.

***Q8. What are strike duties?***

These are duties assigned by your local strike committee that will help put maximum pressure on the employer to ensure the strike is as short as possible and that a new contract is reached as soon as possible. Strike duties may include picketing, running strike headquarters, handling strike logistics, lobbying politicians, talking to reporters, or any other duties that the local strike committee decides.

Remember, you should use your **personal** email to communicate about strike preparations – not the employer’s email.

***Q9. How much time must I spend on strike duties to qualify for strike pay?***

You must perform a minimum of four hours of strike duty per day, or a minimum of 20 hours per week, to be eligible for strike pay. Obviously, each local will want every member to put in as much time as possible to support the strike.

***Q10. What about day care costs?***

There are no provisions for day care costs while on strike. You must work with your local committees to make suitable arrangements or accommodations so you can fulfil your strike responsibilities.

***Q11. Can I arrange to picket at a location that is closer to my home?***

Yes, you can arrange to picket at a location that is not in your local. You will need to fill out Form J (Picketing/Accommodation Information), which can be found in the Strike Manual. This form must be submitted to your OPSEU regional office or staff representative. Once this is done, the strike finance chair can record your hours.

***Q12. What if I am on an accommodation?***

All members of a striking bargaining unit have the right to participate fully in the strike. However, some members may not be able to perform all strike duties. In such cases, the strike committee has a legal and moral obligation to modify the member’s strike duties to enable them to earn strike pay. This is called accommodation.

Members have a duty to inform their strike committee if they require an accommodation and to co-operate in finding solutions.

Those requiring accommodation to perform modified strike picket duties must fill out Form J (Picketing/Accommodation Information), a copy of which is in the Strike Manual. Details of a member’s needs are confidential.

A member of the strike duties subcommittee shall be assigned to deal with requests for accommodation, which must be provided in a manner that respects the dignity of the person.

***Q13. If I have financial commitments that I must fulfil, e.g., mortgage payments, loans, etc., what happens to them during the strike/lockout?***

You will still be responsible for paying your bills, but you can often negotiate a hold on payment in the short term in the event of a strike.

Tips for budgeting during a strike or lockout:

- Mortgages/rent: Talk to your bank, credit union, or landlord and negotiate a plan for the duration before the next payment is due.
- Taxes: Ask if an accommodation can be arranged to defer property taxes.
- Utilities: Make a request to spread your payments.
- Loans: If your lender won't allow a deferral, consider refinancing to reduce the payments.
- Credit cards: Charging purchases while on strike is not recommended. Pay the minimum charge or use a line of credit with a lower interest rate.
- Insurance: Investigate ways to spread out the premiums.
- Child support: Contact your ex-spouse and try to work something out.

***Q14. What is the local hardship relief committee?***

This is a sub-committee of the local strike committee that assists and provides advice to members who may require additional help to get through the strike.

The local hardship relief committee is funded by the donations it is able to collect – it is not funded by OPSEU centrally. The committee may make recommendations to the local strike committee that some members, who are experiencing particular hardship, receive special assistance. Committee members may also communicate with local financial institutions about the strike and, where necessary, intercede with those financial institutions to help striking members meet their credit obligations until the strike is over.

Please note that the normal hardships of being on strike do not qualify a member for hardship relief. To qualify, a member must first exhaust all other reasonable options.

All members are strongly encouraged to continue to plan their personal finances. Contact your bank, credit union, your landlord, your daycare provider, etc., to discuss payment options. The earlier you make a plan, the better prepared you will be.

***Q15. How can I help my local during the strike?***

There are many duties involved in running a successful strike. Consider volunteering for strike committees in the areas of communications, finance, or logistics. Help make signs, help run the phone tree, and spread the word about the issues to your friends, family members, neighbours, faith group

members, and your MPP. And visit the website at [www.collegefaculty.org](http://www.collegefaculty.org) for more actions you can take to show your support for the team.

## Part Two: pension and benefit information

### Benefits

#### *Q16. Do I still receive insured benefits if I end up on strike or locked out?*

Under OPSEU policy, the union attempts to negotiate with the employer (prior to any work stoppage) to continue insured benefits if there is a strike or lockout.

#### *Q17. Do I have to return employer-issued equipment if I end up on strike or locked out?*

Yes, if asked, you must return all employer-issued equipment.

### Vacation

#### *Q18. What happens if I am on vacation when a strike or lockout starts? Will I get paid?*

No. You are considered to be on strike or locked out once a labour dispute starts. The employer is not obliged to give you vacation pay.

#### *Q19. If my pre-approved vacation falls during a strike or lockout, will I get vacation pay?*

No. There is no collective agreement in effect. The employer does not have to pay you vacation pay. You keep your vacation credits and can take approved vacation later.

### Sick Leave

#### *Q20. Can I get short-term sick leave with pay when I'm on strike or locked out?*

No, because the collective agreement does not apply.

#### *Q21. What happens if I'm on short-term sick leave when a strike or lockout starts?*

The employer will stop short-term sick leave benefits, but you can apply for Employment Insurance (EI) sickness benefits. Applications can be made directly by attending a [Service Canada office](#). You may also check the [Service Canada website](#). Be sure to keep copies of the forms and medical certificates related to your sick leave that you gave to your employer and Service Canada. You are responsible for any medical documentation completion fees, if charged by your doctor.

#### *Q22. Am I eligible for Employment Insurance (EI) sickness benefits during a strike or lockout?*

Maybe, if you can show that your leave was anticipated and arrangements for it had begun before a strike or lockout started. Being on short-term sick leave before a strike or lockout may show that your leave was anticipated. Inform the employer in writing of the dates of any scheduled surgery and anticipated recovery periods. Be sure to keep a copy for yourself at home.

However, be sure to check with [Service Canada](#) to determine whether your circumstances meet their entitlement for sickness benefits.

***Q23. To apply for EI sickness benefits, I need my record of employment (ROE) from my employer. During a strike or lockout, can I get my ROE?***

Your employer should give you your ROE. If you can't get it, or there is a delay, don't wait for your ROE. Apply as soon as possible – a temporary claim can be set up for you. Bring proof that you were working, such as pay stubs, to the EI office when you apply for benefits. If you informed your employer of any scheduled surgery or provided medical certificates for your sick leave, then take copies with you to the EI office.

***Q24. EI has a one-week waiting period at the beginning of every claim. Will I have to wait the one week if I was on short-term sick leave before a strike or lockout?***

If you were on short-term sick leave before a strike or lockout, EI may, upon request, waive the one-week waiting period. However, if your sick leave did not begin before the strike or lockout, and if you are approved for EI (because the leave was anticipated), then it is unlikely the one week waiting period will be waived. Ask [Service Canada](#) for clarification.

***Q25. Can I participate in the strike or lockout while I'm receiving EI sickness benefits or in the one-week waiting period?***

You could lose your EI sickness benefits if your involvement in the labour dispute leads EI to think you are well enough to return to work.

***Q26. Will the amount of my EI sickness benefits be affected by a strike or lockout?***

Possibly. The amount you receive is based on your best 14 to 22 weeks of earnings in the prior 52 weeks. The number of weeks used (14-22) is based on the rate of unemployment in your region. This is determined by EI. If you only worked 14 to 22 weeks in the past year, then the strike could affect the amount you receive from EI. But if you worked for more than 22 weeks in the last year, it's unlikely to have any effect on the amount you receive.

Strike pay is not considered to be earnings for EI purposes, so it will not be deducted from your EI benefit.

***Q27. Am I eligible for EI sickness benefits if I was on modified work (part-time or full-time) before the strike or lockout began?***

No.

## **Ontario Health Insurance Plan (OHIP)**

***Q28. Does my OHIP coverage stop as a result of a strike or lockout?***

No. OHIP is based on living in Ontario, not on being at work. If you had OHIP coverage before a strike or lockout and you keep living in Ontario, your OHIP coverage continues.

## Pension Plan

### *Q29. What happens to my pension during a strike or lockout?*

Neither you nor the employer pays into the pension plan during a strike or lockout. However, your membership in the plan continues, and you don't lose any entitlement you had earned up to the date the strike/lockout began.

### *Q30. Will I be able to buy back the pension credits I lose during a strike or lockout?*

Yes. The cost of purchasing pensionable service after the strike will depend on when a strike occurs and when the purchase is made:

Should a strike occur in 2017 the member pays two times contributions based on the salary at the start of the work stoppage, and the contribution rates in effect during the strike.

It is important to note that should a strike occur after January 1, 2018, if a purchase is made within six months from the end of the strike, the member pays two times contributions based on the salary at the start of the work stoppage, and the contribution rates in effect during the strike.

If a purchase is made after 6 months the member pays the higher of two times the contributions, or the actuarial cost of the service being purchased.

Please [contact the CAAT Pension Plan](#) to request a costing at the conclusion of the strike or lockout.

It is important to note that the cost of a purchase is determined at the time that you make the purchase. Note that as a general rule, the cost of a leave gets more expensive the longer you wait to make the purchase.

### *Q31. Will a strike or lockout affect my early retirement dates?*

The earliest retirement date of the end of the month you reach age 55 would not change (for members who would be eligible to retire as a result of being age 50 with at least 20 years of pensionable service, this date would be later as a result of the break in service from the strike if the member has not reached that 50/20 status by the time the strike starts. However should a member purchase the service missed as a result of the strike, this would put them back on track). Eligibility for an early unreduced pension will also change with less service (and any reduction for an early start would be higher than with the service purchase.)

### *Q32. Can I make pension contributions if I'm on pregnancy, parental, or adoption leave? What if I'm getting WSIB benefits during a strike or lockout?*

No, you will not be able to make pension contributions during a strike or lockout if you are on pregnancy, parental or adoption leave. Normally pension contributions would come off of your top-up pay, which will not be paid during a strike or lockout.

If you are on WSIB there are no contributions required. One of the features of the CAAT Pension Plan is that contributions are waived for both the employee and the employer when an employee is on full WSIB benefits and for the first 12 months of partial WSIB benefits.

***Q33. Can I retire during a strike or lockout?***

Yes, however the retirement processing is subject to the information provided to the Plan by your employer. Should you wish to retire while on strike you should contact the CAAT Pension Plan. You can contact them at 416-673-9000 or (toll-free) 1-866-350-2228.

Please note that the employer must confirm the date you retire and provide the Plan with year-to-date financial information in order for the Plan to proceed with the retirement calculation. Therefore, the payment of your pension may be delayed if this information is not provided by your employer.

***Q34. During a strike or lockout, can I apply to buy back pension credits for service prior to the strike, so as to be within time limits?***

Yes. [Contact the CAAT Pension Plan](#) directly to arrange a buyback (other than the strike purchase) during the strike.

***Q35. Will a strike or lockout have an impact on my best 60 consecutive months' salary for pension calculations?***

The strike period will have an impact on the Highest Average Pensionable Earnings (HAPE) as the HAPE would be based on the actual pensionable earnings and actual pensionable service accrued. The earnings and service that the member would have accrued during the strike period will be excluded unless a purchase is made.

***Q36. If I die during a strike or lockout, will my survivors get their benefits under the pension plan?***

As a member of the plan your spouse or beneficiaries are entitled to receive a survivor benefit based on the provisions laid out in the Plan Text.

## **Employment Insurance (EI)**

***Q37. Can I get regular EI if I'm not working because of a strike or lockout?***

No. Generally, if you're unable to work because of a strike or lockout, you can't get regular EI benefits. However, you may be eligible for EI maternity, parental (includes adoption), sickness, or authorized training benefits.

## **Pregnancy/Parental/Adoption Leave**

***Q38. What happens if I'm on maternity, parental, or adoption leave, and a strike or lockout starts? Will my EI benefits continue?***

Yes, your EI benefits will continue for the duration of your leave.

***Q39. Will I receive EI maternity, parental, or adoption leave benefits if my leave starts during a strike or lockout?***

Yes, if you can show you were arranging the leave before the strike or lockout. Prior to any strike or lockout write to the employer, stating your intent to take the leave. Be sure to keep a copy for yourself at home.



***Q40. If I participate in the strike or lockout prior to the start of my prearranged maternity, parental, or adoption leave, will I still receive my EI benefits?***

Yes, if you can show you were arranging the leave before the strike or lockout. Prior to any strike or lockout, write to the employer stating your intent to take the leave. Be sure to keep a copy for yourself at home.

***Q41. Can I participate in a strike or lockout while I'm on maternity, parental, or adoption leave, and still receive my EI benefits?***

Yes. However, keep in mind that EI pays these benefits on the assumption that you need the time off to care for your child. Strike pay is not considered to be earnings for EI purposes, so it won't be deducted from your EI benefit.

***Q42. Will the amount of my EI benefits be affected by a strike or lockout?***

Possibly. The amount you receive is based on your best 14 to 22 weeks of earnings in the prior 52 weeks. The number of weeks used (14-22) is based on the rate of unemployment in your region. This is determined by EI. If you only worked 14 to 22 weeks in the past year, then the strike could affect the amount you receive from EI. But if you worked for more than 22 weeks in the last year, it's unlikely to have any effect on the amount you receive.

***Q43. To apply for EI maternity, parental, or adoption leave benefits I need my record of employment (ROE) from the employer. If my leave starts during a strike or lockout, can I get my ROE?***

Your employer should give you your ROE. If you can't get it, or if there's a delay, bring proof that you were working, such as pay stubs, to the EI office when you apply for benefits. Apply as soon as you can. Don't wait for your ROE. A temporary claim can be set up for you.

***Q44. Under the collective agreement, the employer tops up my wages to 93 per cent of my pay for the first two weeks of my maternity, parental, or adoption leave. Will I get this during a strike or lockout?***

No. The employer does not have to pay this for any part of the two-week period that falls during a strike or lockout. *Please note that Service Canada changed the waiting period to a one-week period as of January 1, 2017.*

***Q45. Under the collective agreement, the employer tops up my EI maternity, parental, or adoption leave benefits to 93 per cent of my pay for a number of weeks (15 weeks of maternity leave top-up and 35 weeks of parental/adoption leave top-up). If I am on leave and getting EI benefits before a strike or lockout, or go on leave during a strike or lockout, will I get the top-up from the employer?***

During a strike or lockout you will not receive the top-up.

***Q46. Would the top-up start up again after a strike or lockout?***

Yes, as long as you are still getting EI maternity or parental (including adoption) benefits and the top-up provision still exists in the new collective agreement.

***Q47. Do I have benefit coverage if I'm on maternity, parental, or adoption leave during a strike or lockout?***

The employer must allow employees on maternity, parental or adoption leave to continue to participate in their benefits for the period of their leave. Employees on these leaves must pay the premiums they normally pay. Your benefit coverage should remain the same as when you were at work.

***Q48. What happens if my maternity, parental, or adoption leave ends, and I'm ready to return to work while a strike or lockout is still on?***

You are considered on strike or locked out, and you should report for strike duties.

***Q49. The collective agreement says I must serve 13 weeks to get leave without pay for maternity, parental, or adoption leave. Will a strike or lockout interrupt my eligibility for these leaves?***

A strike or lockout does not interrupt the qualifying period for these leaves. To be eligible, your hire date must be at least 13 weeks before the expected date of birth or start of the parental or adoption leave.

## **Long-Term Disability(LTD)**

***Q50. If I'm on LTD before a strike or lockout, do my LTD benefits continue?***

Yes, because LTD is an insured benefit and not paid directly by the employer.

***Q51. If I'm on LTD when a strike or lockout starts, will I receive other benefits?***

Under OPSEU policy, the union attempts to negotiate with the employer (prior to any work stoppage) to continue insured benefits if there is a strike or lockout. Our bargaining team is currently in discussions with the employer about this.

***Q52. If I become ill or injured while on strike or locked out, will I be eligible for LTD benefits?***

Under OPSEU policy, the union attempts to negotiate with the employer (prior to any work stoppage) to continue insured benefits if there is a strike or lockout. Our bargaining team is currently in discussions with the employer about this.

***Q53. Would a strike or lockout interrupt my 130 day elimination period for LTD?***

Yes, should LTD benefits be provided during a strike or lockout, none of the days on strike or lockout will apply to elimination period as none of those days will be considered "working days". A strike or lockout will delay your eligibility.

***Q54. While returning to work on a gradual basis, I've been receiving both rehabilitative employment earnings from the employer and LTD benefits. Will I continue to receive both during the strike?***

During a strike or lockout the employer does not pay you and you do not work. Your LTD benefits continue to be paid by the insurer, without the usual reduction of 50 per cent of your rehabilitative employment earnings.

## Workplace Safety and Insurance Board (WSIB) Benefits

### *Q55. If I'm injured while on strike duty, can I make a WSIB claim?*

No, you can't.

### *Q56. If I'm getting WSIB benefits, will they continue during a strike or lockout?*

In many cases, yes, provided you continue to qualify medically and co-operate with WSIB-approved programs.

However, if WSIB discontinues or threatens to discontinue your benefits, contact the OPSEU Pensions and Benefits Department and ask to speak to the WSIB benefits counsellor.

### *Q57. If I have an approved WSIB claim and I'm in receipt of WSIB benefits, who pays me during a strike or lockout?*

WSIB will pay you directly.

### *Q58. Does the WSIB pay me the equivalent of my salary?*

No. If the WSIB pays you directly, you will get WSIB benefits, which are 85 per cent of your net average earnings for any injury or illness that occurred after January 1, 1998, or 90 per cent for any injury or illness before that.

### *Q59. Would my strike pay affect the WSIB benefits that I get during a strike or lockout?*

No. Strike pay is not considered earnings by the WSIB. Therefore, it's not offset from WSIB benefits. However, you're in receipt of WSIB benefits because you're deemed too ill or injured to be working. If the WSIB believes you have recovered enough to be working (i.e., because you have reported for strike duty), they may not continue your WSIB benefits.

### *Q60. Will I have benefit coverage if I'm on WSIB during a strike or lockout?*

You can keep employment benefits for one year from the date of your injury or until you return to work, whichever is sooner. You must pay your share of the premiums. Your benefit coverage remains the same as when you were at work.

### *Q61. What happens if I'm getting WSIB benefits and am ready to return to some type of work during a strike or lockout?*

The employer will probably tell the WSIB that there is no appropriate placement for you due to the labour dispute. If this happens, inform the WSIB of your situation and your intention to continue following WSIB rules. You should continue to receive WSIB benefits as long as you co-operate with their requirements.

If WSIB discontinues your benefits, contact the OPSEU Pensions and Benefits Department and ask to speak to the WSIB benefits counsellor.