



MAKING SCHOOLS WORK

February 2015

OSBCC Strike Vote Q and A

What is a strike?

- A strike can be a complete work stoppage, a refusal to work by some or all of a group of employees at the same time, a slow-down or some other concerted activity designed to restrict or limit output.
- What constitutes a strike is governed by the Ontario Labour Relations Act (OLRA), and it can involve more than just traditional walkouts. For activity other than straightforward work refusals to be considered a strike, it needs to be designed to restrict or limit output.
- The right to strike in Canada was recently confirmed by the Supreme Court as a constitutional right.

What is a lockout?

- A lockout is an employer action – it happens to you. It involves at least some closure of the workplace or refusing to continue to employ at least some of the members of the bargaining unit.
- It is an action that employers use to either prevent employees from exercising their rights under the Act, or to help the employer get a group of employees to change their position in bargaining.
- Under the School Boards Collective Bargaining Act, the management team can only lock out employees on central table issues if they have permission from the provincial government. This does not apply to local bargaining.

Could a board lock out only certain classifications?

- We don't know. We don't think any Ontario employer has tried this, but if it did happen in your negotiations, we would always have the option of taking the rest of the bargaining unit out on strike until the board let the locked out brothers and sisters back to work.

What is a lawful strike?

- A lawful strike must meet certain criteria. Your collective agreement (CA) must be expired, a successful strike vote must have been taken either within the last 30 days of the CA term or any time after the CA expired, and 17 days must have passed since a “no board” report was issued by the Minister of Labour.

What is an unlawful strike?

- An unlawful strike is any time the union goes on strike but has failed to achieve one of those criteria listed above. (As an example relevant to your sector, ETFO's “work to rule” was found by the Ontario Labour Relations Board [OLRB] to be unlawful because it was a strike occurring during the life of the CA imposed by Bill 115).

.../2

What is conciliation?

- Conciliation occurs when a conciliator – essentially a mediator – is appointed by the Minister of Labour (at the request of either party) to assist in achieving a deal. The conciliator must report to the Minister within 14 days of being appointed, though if employer and union agree, that time can be extended.
- While the intention is to help the parties find a deal, conciliation is also a key step on the road to being in a legal strike/lock-out position.

What is a “no board” report?

- If the conciliation officer can't get a deal between union and employer, she or he reports that to the Minister, and the Minister may issue what is called a “no board” report. This starts the countdown to a strike or lockout – which can occur legally on the 17th day after you find out that there has been a no board report.
- Talks that occur after the 17 day countdown starts are now called “mediation” and not “conciliation”, but this is a formal distinction.

Can “work to rule” be considered a strike?

- Yes it can be.
- Most recently in the school board sector, ETFO engaged in work-to-rule activities by advising its members not to undertake extra-curricular activities, and the OLRB found this to be a strike.

What might “work to rule” look like for CUPE education workers?

- The aim of working to rule is to pressure the employer without disrupting services to students or the public. Actions would be specific to classifications. One example could be to stop working for free – due to increased workload, many of our members work hours over and above their paid hours, with no compensation. Another example could be to take overtime pay instead of lieu time. Another would be to take all your breaks.
- At our conference we heard many creative ideas from the various classifications, and we will have many options available to us should job action be required.

If legislated back to work, can we still “work to rule”?

- Probably not. Since “work to rule” is a form of strike, unless it is clearly allowed for by the back to work law, working to rule would be an unlawful strike.
- You can only work to rule when you're in a legal strike position.

If we vote YES in our strike vote, does this mean we are definitely going out on strike?

- Not necessarily. It means you are supporting the bargaining committee and its proposals (including no concessions), and it means you will stand behind them if they call for job action, up to and including a strike.
- Showing we are prepared to strike is the best way of avoiding a strike.