

FAQS

QUÉBEC | NON-CONSTRUCTION
Unfair Labour Practices

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Employees, whether unionized or not, who want to be more informed, should refer fellow employees to this web site and may certainly download, print, copy, transmit and distribute these materials to fellow employees or any interested parties by any means whatsoever. You do not need to contact us for permission to do so.

Employers may do the same, for management training and communication purposes, whether within their organization or with other interested parties. In some situations, employers may provide these materials to their employees. However, we suggest, in the strongest possible terms, that you only do so in consultation with a labour lawyer who knows your individual situation.

Unions may do the same, for training and communication purposes, whether within their union or with other interested parties such as their Members and or non-Members they may represent.

For help, call LabourWatch TOLL-FREE at

1-888-652-2687

ARE THERE 'ILLEGAL' THINGS A UNION OR EMPLOYER MUST NOT DO?

Yes, Quebec labour law has rules that unions, employers and employees must not break. When they do it is called an Unfair Labour Practice (ULP).

Unions may charge employers with Unfair Labour Practices during: union organizing campaigns, decertifications and their ongoing relationship (for example during bargaining). Similarly, employers may charge unions with Unfair Labour Practices for certain things.

Some union websites have good information about what employers might do in response to a union organizing drive.

Employees, who feel that the employer has done something wrong, will find that the union will almost always file the Unfair Labour Practice complaint for you. There are a number of things that an employer may not do during certification or decertification drives. Many are obvious: threats, intimidation, coercion, penalties, or promises. There are less obvious things that employers are not allowed to do, like interfere with or control the administration of a union. The union will provide significant help to employees who want to become or remain unionized and will usually provide an expert or a lawyer to go to the Commission for you. The union pays the legal fees.

Unions have excellent staff, lawyers and websites funded by forced union dues from unionized employees. LabourWatch does not attempt to duplicate the excellent information and resources available from unions. See our [Links](#) section for links to Union websites.

While employers can charge a union with a ULP for certain things, we do not deal with how that works at LabourWatch either. Employers have more resources than employees to help them deal with union actions.

If you have Employment Standards or Human Rights complaints about your employer you can generally get some help from a government agency. At this time there is no "Employee Advisor or Ombudsman" funded by taxpayers or union dues to help you address concerns about a union. If you have a problem with a union's actions (that your employer cannot address with the Commission and the union) you are expected to take it up with the union or go to the Commission yourself, or with a lawyer. Generally, employees are discouraged from approaching their employer regarding their union's conduct. See [What Things Might be an Unfair Labour Practice \(ULP\) by a Union?](#)

Our mandate, in helping employees make informed choices, is to provide information and resources which: Unions do not provide, employers may not be able to provide and some Labour Boards choose not to provide. The challenge you face is proving that a union is doing illegal things or committing unfair labour practices. Be prepared for the possibility that the Commission des relations du travail will allow unions to do things to you that you might disagree with but may be lawful.

It is also generally true, that our labour laws and Labour Boards apply a different standard for what a union may or may not do and what an employer may or may not do. Employees generally have the greatest free speech rights in comparison to unions, and certainly greater than employers. In addition, while unions can help pro-union employees in many ways, employers can generally not assist union-free oriented employees.

In some cases, generally during certification applications, if you provide the employer with the necessary information, the employer can file an Unfair Labour Practice Complaint based on the inappropriate behaviour; however in most cases the employer cannot do so. It may also be able to provide you with the name of a lawyer you can contact to assist you with your own complaint.

At LabourWatch we hope this website and our Section on filing Unfair Labour Practice Complaints against unions will help you understand how to file an Unfair Labour Practice against a union. If you want to speak with an expert please see the Contacts section of the website to find a lawyer who may be able to help you.

WHAT THINGS MIGHT BE AN UNFAIR LABOUR PRACTICE (ULP) BY A UNION?

A union is prohibited from using coercion, intimidation or threats to force someone to join in or discourage someone from joining a rival union or to encourage someone to resign from a union.

It is important to understand that there must be evidence that the inappropriate behaviour actually influenced employees and made them change their minds and support the union (i.e. sign a card or not sign a card, cancel a card or not cancel a card, sign or not sign for decertification), or oppose another union. If the union's actions did not cause any employees to change their minds, the Commission may refuse to find an Unfair Labour Practice has been committed and will usually refuse to reject the membership evidence obtained as a result of the inappropriate behaviour.

Unions are also not entitled to attempt to persuade employees, at the employee's place of work during working hours, to join, not join, or cease to be a member of a union, without the employer's consent. (Consent would include an employer specifically authorizing such activities or failing to stop them when they become aware.) This behaviour is also an Unfair Labour Practice. It is up to the employer to exercise its disciplinary powers to deal with employees who waste paid time campaigning for, or against, the union.

- Direct attempts to buy employee support, promises of payment or direct payment from the union in return for joining may be a ULP.
- Attempting to persuade employees, at the employee's place of work during working hours, to join, not join, or cease to be a member of a union, without the employer's consent. (Consent would include an employer specifically authorizing such activities or failing to stop them when they become aware that they are taking place.) It is up to the employer to exercise its disciplinary powers to deal with employees who use paid time to work for, or against, the union.
- Expel or suspend an employee from membership in the union or take disciplinary action against an employee by applying the union's membership rules or discipline standards in a discriminatory way.
- Expel or suspend an employee from membership in the union or take disciplinary action against an employee because the employee refused to break the Quebec Labour Code sections relating to unionization.
- Union discrimination against a person because they disclosed or were about to disclose information they were required to disclose by the Quebec Labour Code sections relating to unionization.
- They cannot threaten you, corner you, harass you, or otherwise bully you into signing a membership card - that may be "Intimidation".
- Telling an employee that they will lose their job once the union is certified if the employee failed or refused to sign a union membership card.
- The union cannot tell you that they will not represent you if they become the bargaining agent for your workplace.

WHAT CAN I DO IF I BELIEVE THE UNION IS MISLEADING ME?

Unfortunately unions are held to a different standard than employers when it comes to union drive. Compared to unions or employees, an employer is more limited by law in what it can say or do. A union is allowed and even encouraged to convince employees of the benefits of union membership. Employees who oppose or support the union can equally campaign to encourage their fellow employees to join, not join or cancel their membership cards, though they too are bound by Quebec Labour Code. Québec Labour Code.

FACT: UNIONS VERY RARELY SIGN UP 100% OF EMPLOYEES.

For example, unfortunately unions often pressure you by telling you that you are the last to sign and surely you don't want to be the last to sign. When an outside union organizer or a fellow employee supporting the union tells you this, you may want to confirm for yourself if other employees have signed. In particular, talk to other employees and find out who else has been told they were the "only" employee who had not signed. Unions often say this and it is almost never true. Rarely do 99%, let alone 100%, of all employees sign a card in a union drive.

THE 'STACK OF CARDS' AND THE YOU'RE-THE-LAST-ONE TRICK.

Another tactic, according to what union organizers tell LabourWatch, is to have a stack of cards or papers that the organizer claims are signed by other employees. Sometimes they make up cards or they have actual cards on the top of the pile and the rest are blank. They do this to try to make you think you are one of the last or one of the last few to sign; they also want to make you feel like you're "part of the crowd."

LabourWatch suggests that you never sign a union card just because fellow employees or union organizers tell you that you are the last or one of the last to sign, that most have signed, or they show you stacks of cards. They are most likely not telling the truth. If you have signed a card after being told this you may want to cancel it right away. See our [Downloads](#) section about how to cancel your card. If the union is going to use this sort of tactic you should ask yourself what other lies they may be telling and whether you can trust them with union dues and your employment. Check into most everything a union says before signing a card.

Ask questions, talk to your fellow employees, friends, and family, question and try to confirm the union's claims. Find out what the union has told other employees.

MEMBERSHIP IS NOT MANDATORY - UNLESS THAT IS NEGOTIATED LATER

Remember, you are not required to sign a Union membership application or Union card. You are permitted to join the Union after they are certified (if they get certified).

Also, if your employer gives in to a common union demand to have a "forced membership" clause in the collective agreement, you will be a member whether you want to or not. A union card or membership application tells the Commission des relations du travail that you want the union to represent you in your dealings with the employer. **It never means less than that**, so if you are unsure, don't sign.

GET MORE INFORMATION

During a union drive, it is important to ask questions to both the union and the employer. Although the employer has less legal room to make its opinion known, they are still allowed to correct false information spread by the union or express its preferences provided its words are objective, accurate and make people think without constituting threats or promises. You may also ask questions to the union representatives if you believe that their statements are not true, deceitful, misleading or inaccurate. You do not have to sign a union membership card and never do it as long as the union has not provided you with all the information you require to make your decision.

Don't forget that, when a union representative approaches you, they are not required to explain to you the pros and cons of a decision leading to unionization. They are convinced that unionization is preferable for employees and therefore will not mention the disadvantages of unionization. For instance, while he must tell you that

you have to pay a fee (\$2) to become a member of the union but he is not required to tell you that once unionized you will have to pay union dues of between 1.5 and 2% of your pay. However, if you put the question to the union representative regarding union dues to be paid in the future, they are not allowed to lie to you about it.

See www.labourtalk.org for union dues and strike calculators for many unions.

During a union drive the union reps are not likely to tell you that strikes or lock-outs may occur as a result of a dispute with the employer.

If you find out that you have been misled, or have reason to feel you have been lied to, it is most important that you act quickly as there may be little to change your mind once you have signed a union card. If you feel the union, or someone representing the union has misled you, and that you signed a card in a drive because of that information, the first thing you should do is cancel your union card and then file an Unfair Labour Practice Complaint with the Québec Commission des relations du travail – See our download about [how to cancel your union card](#).

WHAT IF THE UNION USES A CARD I DID NOT SIGN, OR THAT I CANCELLED?

It is fraud for a union to submit a card that you did not sign, or a card that you told the union you cancelled, and it should result in your membership or union card not being counted. In some cases, the Québec Commission des relations du travail may do more serious things to the union. At a minimum the Commission should not count your card in the decision of whether or not the union gets a vote or gets certified on cards (no vote). Given the very tight timelines involved in union certification drives, by the time you realize what has happened it may be too late. If you believe there has been, what is known as “card fraud” work with your fellow employees to gather the necessary evidence and submit it quickly.

If someone else signed your name on the card without your permission, this is forgery, and it may also be appropriate to call the Police in addition to filing a ULP.

There are legal problems for a union when an employee who signs a card does not pay the card fee because someone else pays it or someone pays them back afterwards.

You can file a complaint with the Commission. If you decide to do so, you must file it quickly since the complaint will not be allowed if it is filed after the union is certified. For the Commission to certify a union, a minimum number of conditions must be met to establish its representative nature: i.e. an absolute majority of the employees included in the bargaining unit wish to unionize; a formation meeting is held, membership forms are signed and union card fees are paid. It is upon examining these conditions that the Commission will rule on your complaint.

The Quebec Labour Code requires that an employee personally pay a sum of at least \$2 as union dues. This payment is valid for a period of 12 months. Any failure to fulfill this requirement cancels the membership and may damage the certification process if there are enough problems to affect the application - the Commission could throw it out. If you are aware of problems with the certification process, you should inform the Commission about it.

I SIGNED A UNION CARD BUT THE UNION DID NOT TELL ME ABOUT DUES.

Depending upon the circumstances, if the union has misled you about union dues or promised that you do not have to pay union dues, its conduct may be an Unfair Labour Practice.

But, there is no requirement for the union to tell you about dues. However, if the union has misled you about union dues, or told you that you will not have to pay union dues - that may be an Unfair Labour Practice. You should ask the union Representative about Dues, Initiation Fees, and Special Assessment Fees that might be payable.

Get as much information as possible. Do not sign a union card when it is first given to you. You should make yourself knowledgeable about what it means to sign any document – especially one that removes your right to deal with your employer directly. You should find out as much as possible about how your signature on a union membership card can affect your future. You should ask questions of the union representative or whoever is trying to get you to sign, and you should help others become knowledgeable about what you have learned.

In Quebec, there is no requirement that a union inform employees about union dues. There is therefore no penalty attached to this lack of information. On the other hand, for the union to trick you and provide you with false information about union dues or tell you that you will not have to pay union dues may be a prohibited or Unfair Practice. You should then file a complaint with the Commission des relations de travail as soon as possible.

See www.labourtalk.org for union dues and strike calculators for many unions.

I WAS TOLD THAT I WOULD LOSE MY JOB IF I DID NOT SIGN A UNION CARD.

No, that is not true, this is a threat and it is an Unfair Labour Practice for a union organizer to make this kind of statement.

If a union becomes certified, it represents all employees – not just the employees who supported the union during the certification drive. **Employees who did not sign a union card or Membership Application cannot be punished, and you will not lose your job.** If a union threatens that you will lose your job if you do not sign a union card, the union is committing an Unfair Labour Practice. The union can exclude non-members from meetings about certain union business and you will not be able to run for a union office such as President of the Local, but they must represent you in every way regarding your employment and the provisions of the Collective Agreement.

It would be deceitful for a union to claim that an employee would lose his job if he fails to join in during a unionization drive. It would also constitute intimidation, which is a prohibited practice under the Quebec Labour Code.

I WAS TOLD THAT THE INITIATION FEE WOULD GO UP AFTER THE UNION CERTIFIES.

It would likely not be considered an Unfair Labour Practice for a union to tell you that the union's fee for becoming a union member will be higher after they unionize your workplace, as long as the union does not break its own by-laws or constitution in doing so. The union has sole power to decide its Dues, Fees, and Special Assessments including the right to raise them when it wants to. This is why it is so important for you to obtain a copy of the union's bylaws and constitution and information about union dues and strike pay.

Before signing a union card or any membership document, you should review the union's by-laws and constitution. This should be your main source of information about how the union will do things. Reviewing these documents will give you the information you need to decide if signing a union membership document is in your best interest.

If you cannot get these documents you should not sign a union card. **Demand that the union organizer give them to you first.** If they tell you that you have to sign a card first, consider what sort of union you are joining.

If the information provided to you by the union is false and you were never told that the initial fees would be increased following certification; this constitutes an Unfair Labour Practice because it misleads you and is intended to get membership in the union through misrepresentations. In this case, you may file a complaint with

Commission des relations du travail.

On the other hand, if the information is true, the Commission des relations du travail cannot do anything as the setting of the union dues is part of the internal administration of the union.

WHAT CAN AN EMPLOYEE DO ABOUT A UNION UNFAIR LABOUR PRACTICE (ULP)?

In our [Downloads](#) section, LabourWatch provides a [Form](#) for employees covered by the Québec Labour Code along with a set of instructions to help you file an Unfair Labour Practice Complaint against a Union. It sets out all the required information you must complete when making a complaint. There may be Québec Commission des relations du travail information officers who should answer any questions you have. At LabourWatch we are very interested in learning about Employee concerns about Union conduct. Please call or email us (see [Contact Us](#)) and tell us about your experience with a Union and the Commission if you file an Unfair Labour Practices Complaint.

If you believe that someone from the Union or acting on behalf of the Union has acted in a way that amounts to a ULP as described in Questions 2 - 7, you may file an Unfair Labour Practice Complaint against the Union. Get the filing instructions from our site and follow the instructions. If you are confused or do not understand anything make sure to speak with one of the Employee Advisors in our [Contacts](#) section or [Contact Us](#) at LabourWatch. The Commission website also has an informational circular that covers this topic.

WHAT WOULD THE LABOUR BOARD DO ABOUT UNION UNFAIR LABOUR PRACTICE (ULP)?

If the Union is found guilty the Québec Commission des relations du travail has the authority to impose a wide range of penalties.

The Commission may order a secret ballot revote. Some of the remedies other Labour Boards in the country use may be what the Commission could do given its broad powers:

- The Union may be ordered to reinstate someone to membership in the Union.
- The Union may be ordered to rescind any disciplinary action taken in respect of any employee in contravention of Québec Labour Code.
- Direct the Union to take other steps to correct the ULP.
- Dismiss the certification application.

Generally, the more serious the breach of the Québec Labour Code the more serious the penalty.

If the Commission upholds a complaint, it may order a remedy that is not aimed at punishing the party which committed an infraction, but rather at putting the complainants in the position they would have been in had the infraction not occurred. The Commission does not have the power to fine a party who has been found to be in violation of the Québec Labour Code.

It's not really possible to say what the penalty for any specific item or action would be. So much depends on the specific circumstances and context. For example, if the actions complained about had no real effect on the Employees' ability to express their wishes about being represented by a Union, then the penalty, if any, will tend to be less serious.