

FAQS

SASKATCHEWAN | NON-CONSTRUCTION
Unfair Labour Practices

TERMS OF USE

The LabourWatch web site and all materials provided by it are intended to provide information of general interest to the public.

They are not intended to offer legal or consulting advice. Accessing information or documents from the LabourWatch web site is not intended to create a solicitor-client relationship.

Although we try to ensure the information we provide is accurate, we cannot guarantee that it is complete, correct, or timely, and make no warranties of any kind. The information on this web site should be used in combination with appropriate professional advice obtained from a qualified professional who understands your particular situation.

Links to any other web site or reference to any product or service does not suggest or imply an endorsement or recommendation of those products, services or web sites (or the material contained on those web sites).

COPYRIGHT

The Canadian LabourWatch Association encourages the use of our content including copying, emailing and faxing as needed by users. There are no restrictions on the use of our FAQ's, any Downloads related to labour law proceedings, our Newsletters, etc. Any documents or materials housed on this web site that are the product of organizations other than LabourWatch may be viewed but further copying and distribution should only be done in accordance with copyright law.

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, Saskatchewan 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, decertification campaigns 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 Labour Board 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.

While there is no express prohibition in the Saskatchewan Trade Union Act, the Saskatchewan Labour Relations Board has said that an application to decertify (get rid of) the Union "must be free from any employer influence in all respects". So, it is likely that the Board would find it to be an ULP if the employer assists employees to pursue their concerns with Union actions during a decertification campaign.

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 Labour Board and the Union) you are expected to take it up with the Union or go to the Labour Board 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 advancing employee rights, is to provide information and resources which: Unions do not provide, employers may not be able to provide and the SLRB may 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 SLRB 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.

While an employer may not pay legal fees of the employees, there are times that unfair labour practices against the Union could be raised by an employer. Although these are unusual, it would have to be a circumstance where the Union has committed an unfair labour practice that involves both the employer and the employee. Such circumstances would include union representatives holding themselves out to be management of the Company and requesting employees to sign. It is also possible if the organizing is done by managers in the Company, thereby having the cards tainted by those in management positions. However, generally speaking, unfair labour practices committed which do not involve the employer or its management in any way will have to be pursued directly by the employees.

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?

Intimidation and threats are closely related. They may range from threats of loss of jobs to threats of physical harm. Such conduct is not acceptable under the Saskatchewan Trade Union Act.

The Saskatchewan Labour Relations Board usually allows some room when considering whether a Union has made inappropriate promises. For instance, Unions are generally expected to make promises of better working conditions. However, direct attempts to buy employee support (for example: promises of payments or other pay from the Union in return for joining the Union such as paying your card fee) may be an Unfair Labour Practice.

Unions that tell employees that if the Union is approved and that those who have not signed a card will be terminated (perhaps you) have acted contrary to the union security provisions of the Act. There are no definitions, other than that section that can be used. If an employee feels that they have been threatened, intimidated, coerced or promises or threats have been made, they should write those down and have discussions with someone directly involved in this area of law.

Coercion involves compelling employees to adopt a certain view or enforcing a view which would not otherwise be held by the employee. For example, if a Union makes deliberate misstatements about the employer or another Union, this may be viewed as coercion. However, misstatements that are merely foolish, unreasonable, or even negligent will not be found to be a violation of the law.

It is a Unfair Labour Practice (ULP) if the Union files your card after you told them not to.

In Saskatchewan it is a ULP to declare, authorize or take part in a strike unless a strike vote is taken by secret ballot among the appropriate employees and a majority vote in favour of the strike. On the question of rights to disagree, it is illegal for the union to take steps to have an employee discharged for failure to acquire or maintain membership if employees have complied by paying uniform dues, or to use coercion or intimidation of any kind against an employee with a view to discouraging a decertification application.

The question relating to evidence of the inappropriate behavior actually influenced employees and made them change their minds and support the union is not accurate in Saskatchewan. All you need is evidence that the behavior occurred. After that point, then it is then possible to argue that objectively that conduct could cause somebody to support or not support a

union. Because the SLRB does not allow questions to be asked about whether people signed or did not sign to support or not support a union, the test is objective. In some cases, the SLRB will determine a case based on the Board's speculation of how the conduct could have influenced a reasonable person acting in a reasonable manner.

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 an organizing drive. Compared to Unions or Employees, an Employer is limited 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 Saskatchewan Trade Union Act.

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

For example, unfortunately, Unions often use pressure 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 who supports 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 make you think you are one of the last employees to sign; they also want you to feel 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 to sign, that most have signed, or if they show you stacks of cards. Organizers are most likely not telling the truth. If you signed a card after being told this you may want to cancel it right away. See our Download about [how to cancel your union card](#). If the Union uses this sort of tactic you should ask yourself what other lies they may tell and whether you can trust them with Union dues and your employment. Check into most everything a Union says before signing a card.

While such lies might be an Unfair Labour Practice – the misinformation "coerced" you into signing a card – it is very hard to prove and the

Saskatchewan Labour Relations Board might say this kind of technique or "mere puffery" is allowed. It is best to first cancel any signed cards. After that, file a ULP and ensure all other Employees find out what you believe the Union might be doing. LabourWatch suggests you file the ULP because Canada needs more cases of Employees calling into question what Unions do in order to establish more case law on Union actions towards Employees.

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 SLRB 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.

If you believe that the Union is misleading you, the best thing to do would be to not sign a membership application or Union card until you are satisfied that the Union has given you correct information. If you have signed and later receive information that concerns you, cancel your card immediately - see our Download for [cancelling a Union card](#).

UNIONS DON'T HAVE TO TELL YOU EVERYTHING

A Union is not required to give you all of the relevant information to help you decide to join or not join. SLRB decisions make it clear that it is your responsibility to have all your questions answered before you sign an application for Union membership. If you allege that the Union obtained membership cards through fraud (signing cards for employees who never agreed to sign or paying the legally required card fee) (see [What If The Union Uses A Card I Did Not Sign, Or That I Cancelled?](#) for more information on these topics), the SLRB will decide how to deal with those allegations. If you do allege that there were irregularities about how the Union obtained membership cards, you must present proof to the Board. It's not enough to simply make the allegations.

IF YOU'VE BEEN MISLED

If you find out that you have been misled, or have reason to feel you have been lied to, it is critical that you act quickly - there may be little time once you have signed a Union card. It could be used to get a vote on the Union or even a card certification (certification without a vote). If you feel the Union, or someone representing the Union misled you, and that you signed a card in an organizing campaign because of that information, the first thing you should do is cancel your Union card. After that, file an Unfair Labour Practice

Complaint with the Labour Board. See our Downloads section - [Cancellation of a Union Card](#) for a how-to description with forms.

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 personally sign, or a card that you told the Union you cancelled. It should result in your membership or Union card not being counted. In some cases, the Board may take more serious action against the Union. At a minimum the Board should not count your card in the decision of whether or not the Union gets a vote or gets a card certification (certification without a vote).

If there's been card fraud...

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 "card fraud," work with your fellow Employees to gather the necessary evidence and quickly submit it.

Even if you did not sign a card, you could initiate a complaint if the action you are concerned about came from an organizer of the union (as opposed to a fellow employee). If it was an organizer, it could taint all the cards. The Saskatchewan Labour Relations Board could find that the inappropriate conduct against one employee was enough to put the organizing drive and all of the cards filed with it into disrepute.

Once you sign a Union membership card it may only be used in Saskatchewan in the 6 month period after the employee signs it.

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.

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.

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.

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 threat.

If a Union becomes certified, it represents all Employees – not just the Employees who supported the Union during the certification drive.
Employees who do 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.

The Saskatchewan Trade Union Act generally requires, after certification and

after the Union requests union security by a letter or demand to the employer, that all new hires must become and remain a member in good standing. Those who sign cards during a union drive must do the same unless those cards are withdrawn before the Union makes the request for union security. Those who don't sign during the drive but do so after certification must remain members in good standing. Only employees who don't sign during the drive and never do after certification can be employees without becoming members. But, the Act limits termination of employment for loss of membership in good standing to non-payment of dues only.

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

If a Union tells you that the fee for becoming a Union member will be higher after they unionize your workplace, it would likely not be considered an Unfair Labour Practice 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. This is why it is so important for you to obtain a copy of the Union's bylaws and constitution.

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 act. Reviewing these documents will give you the information to help you decide if signing a Union membership document is in your best interest.

A Union that, or a person who – acting on behalf of a Union, solicits support for an application for certification should provide an Employee with information about the amount payable, or reasonably expected to be payable, for any initiation fees and regular membership dues if the Employee asks for it. If you are not provided with this information, ask for it!

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.

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

If the Union is found guilty the Saskatchewan Labour Relations Board has the authority to impose a wide range of penalties.

Order damages, payment of legal fees and "cease and desist" orders can also stop something from happening until the SLRB can hear the case. If problems would occur if a ruling is made before the case is heard. Courts would be able to hear cases on violations of the act or if the union did not comply with a LRB order.

Generally, the more serious the breach of the Saskatchewan Trade Union Act the more serious the penalty.

If the SLRB 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 SLRB does not have the power to fine a party who has been found to be in violation of the Saskatchewan Trade Union Act.

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.