

FAQS

NEW BRUNSWICK | CONSTRUCTION
Unionization

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

WHY IS THE UNION INTERESTED IN ME?

Most likely, the Union is interested in you because it wants you as a member. You see, to unionize your workplace, the union must prove that at least 40% of the group the union wants to unionize want the union to represent them. This leads to a vote.

Indirectly, the union may be interested in you and your coworkers for other reasons. The union seeking your membership may have certain goals for your workplace, for example the rules, pay levels, etc. They may want to help employees with concerns about your employer or your workplace, solve those concerns. It may be trying to collect more money through new union dues or to gain more power by adding to its size. Many unions also use your dues for purposes that are not directly focused on you and your workplace. You should ask them about everything that they or the national or international union offices spend your money on – even ask them to document who they have given money to in recent years.

You should learn more about the Union that's approaching you so you can understand it. You may find some information on the Union's web site or in its general literature, constitution or bylaws. Make sure that you are informed. Ask questions of Union organizers, whether they are your fellow Employees or others. Ask yourself if they can deliver on their promises or claims. If the organizers are being critical of your Employer — are the criticisms accurate and factual and are their solutions appropriate? Are there options other than unionizing or staying unionized?

WHAT ARE MY RIGHTS?

You are free to decide whether you want a Union to represent you or not.

Generally, the law says you should not feel forced to make this decision and that no one should try to influence your decision using illegal threats, penalties, intimidation or promises. Basically, nobody can legally punish or reward you for joining or not joining a union during a union drive - not your employer, the union or anyone else - including your fellow employees. Once unionized there can be consequences for not joining the union or not remaining a member "in good standing". Call us at LabourWatch if you feel you are being penalized in some way for not becoming or remaining a union member "in good standing".

You are free to express your opinions about unions to your coworkers and to promote your views. But, you need to be careful that your coworkers do not feel intimidated or threatened by you.

Unless your employer approves, the union reps or fellow employees (who support the union), should not try to get you to sign a union card during work hours. If the union or its employee supporters does this you can ask them not to bother you at work. Similarly, you are free to decide whether you will allow the union to solicit you at home as well as when you are coming to and from work.

You are always free to request information from the Union and your Employer so you can make an informed decision.

Finally, it is your right to make a complaint to the New Brunswick Labour and Employment Board (see [Contacts](#)), if anyone violates your rights and threatens, intimidates or harasses you about your decision to join or not join a Union.

HOW DO UNIONS ORGANIZE?

It is common for a Union organizing campaign to include some or all of the following:

- The Union receives information that Employees may be interested in a Union or that some Employees are unhappy. Sometimes, the Union will get this information from Employees, their friends or family or, maybe, just from the "talk on the street." Other times, it is the Union itself that decides to target a specific Employer or group of Employees.
- The Union contacts some Employees to find out more about why they are unhappy or why they want to be unionized. Or, the Union targets Employees and tries to get them interested in unionization.
- The Union asks some Employees for the addresses and phone numbers of other Employees so they can be contacted at home. It may be against privacy laws for anyone to take a list they should not have (such as taking one from a supervisor's office) and give such private information to a Union without all the Employee's permission. The same rule applies to Employer's. The only exception is with an order from a Court or New Brunswick Labour and Employment Board.)
- The Union will try to gather a core group of Employees. These Employees will be used to recruit others (Employees are usually more likely to talk to fellow Employees than to strangers).
- The Union will market its services to other Employees. Are you sure that they can deliver?
- The Union will likely have people visit other Employees at their homes to try to get them, and maybe their families, excited about joining the Union. This may also be done at some other meeting place like a restaurant.
- The Union may try to draw attention to many sources of unhappiness. Sometimes, it may present the best Collective Agreements and compare them with current wages and benefits at your Employer. **Ask to see the most recent Collective Agreement the Union has agreed to in your industry.**

- Once the Union believes it has some support, it will begin to get Employees to sign up for membership.
- Once some Employees are members, the Union will approach others and may tell them it almost has enough support. In some circumstances, Employees are told it would be helpful or better for them to sign so the Union can be certified.
- Be very careful if you are asked to sign a card and told that you will still get to vote — this may or may not always be true. See [Will I Get to Vote On Whether There is a Union or Not?](#)

WHAT SHOULD I CONSIDER WHEN DECIDING WHETHER TO SIGN A UNION CARD OR NOT?

Deciding whether you want to sign a Union card or not may be a little easier after asking yourself these questions:

- "Am I content with my working conditions?"
- "What would I like to see changed at work?"
- "Is it reasonable to think a Union will be able to change those things?"
- "Are the changes I want at the top of the list of changes others want?"
- "Does my Employer respond to valid Employee concerns?"
- "Are my concerns best solved through discussions with my Employer or through a Union?"
- "Are the Union's claims about improved wages and benefits or job security realistic?"
- "Does a Union understand my job well enough that I am willing to let one bargain on my behalf?"
- "What improvements would be necessary to pay for the added costs of having a Union, including the potential costs of strikes and lockouts?"

Be very careful if you are asked to sign a card and told that you will still get to vote — this may or may not always be true. See [Will I Get to Vote On Whether There is a Union or Not?](#)

WHAT IF THE UNION COMES TO MY HOME?

You are free to decide whether you want to let the Union contact you at home. Since Unions are usually not allowed to solicit you at your workplace or while you are working, they often try visiting or calling people at home or on your way to and from work.

However, if a Union contacts you and you have decided you do not want to join the Union, tell them you are not interested. You are not required to talk to a Union organizer at your door or let her or him into your home.

If unwanted visits or calls continue you have several options:

- You might tell the Union organizer you are feeling harassed.
- You can make a complaint to the New Brunswick Labour and Employment Board.
- You could even report them to your telephone company or the police.

If you are wondering, "How did the Union get my home phone number and address?" know that, in some provinces, it is against the law to give out personal information about someone without their permission. It does not matter whether you decide to support the Union or not, you may want to contact a lawyer, if you feel your right to privacy has been violated.

WHAT IF I HAVE SIGNED A UNION CARD BUT DON'T SUPPORT THE UNION?

See our guide about [How To Cancel a Union Card](#).

WHAT DOES SIGNING A UNION CARD MEAN?

The union card shows you are a member of the Union and wish to be represented by the union.

By signing a union card, you are signing a membership contract. You are agreeing that you will obey the union's rules and regulations.

Unlike most membership cards, the union card is also used to prove you support of the union's attempt to unionize your workplace.

Your signature on a union card will be used to prove to the New Brunswick Labour and Employment Board that you support the union. If enough union cards have been signed, a vote may be taken about whether the union will be certified. In some provinces, and in federally-regulated workplaces, if enough cards have been signed, the union can be automatically certified - without a vote. Learn more about this in [Will I Get to Vote on Whether There is a Union or Not?](#) Also, in some provinces the Labour Board can find an employer guilty of what are generally called Unfair Labour Practices and the Labour Board may impose a union even if very few cards have been signed based on the idea that employees can no longer make a choice free of the impact of the employer's conduct.

Before you sign a union card, you should read the union's general literature as well as its constitution and bylaws. You should know what your financial obligations will be, what rules will you be expected to follow and what the union's political and organizational goals are. Also, know what else they will do with your money other than activities related to your workplace.

In unionized workplaces in Canada, you must (in most cases), join a union that is certified by the NBLEB and a Collective Agreement is negotiated. You must remain a member in good standing. If you refuse to join or are thrown out of the union they may, in some provinces, be able to force your employer to fire you depending on what is in your Collective Agreement. You may recall or sometimes see media stories about unions threatening their members with this possibility.

Ask for and be sure to keep a copy of anything you sign.

You do not have to sign a card during a union drive. It is against the law for a union rep or a fellow employee to threaten you or your family, to aggressively pressure or coerce you to sign a card. If this happens, report it immediately to:

- Your supervisor, senior manager or owner.
- The Police (if physical harm happens or is threatened)
- The Labour Board (see our [Contacts](#) section on the website).

HOW MUCH WILL JOINING A UNION COST ME?

Most unions are large organizations. But, unlike most large businesses, most unions don't usually sell products. Instead, the union's expenses must be paid by the employees it represents. To raise money, the union collects union dues and, maybe, initiation fees and special assessments or charges from the employees in its bargaining units. Depending on the union's rules, it may be able to fine members who don't obey them.

The union will set the amount you have to pay. If you are thinking about joining a union, you should find out how much you will be charged each month and what rules there are to stop the union from changing these amounts. Your employer does not have a role in setting how much union members pay to the union.

TIP: We suggest you get this information in writing or ask the union to highlight the areas in its pamphlets, constitution or bylaws that address these issues.

As we mentioned before, unions may, on occasion, also require special assessments. This money is used for such things as strike funds, political campaigns, building funds, and other projects the union feels are important. They may ask or make you pay money for workers somewhere else.

WHAT CAN I DO TO SUPPORT OR OPPOSE THE UNION?

A few of the things that you can do are listed below:

You are free to express your opinions about unions to your coworkers and to promote your views. But, you need to be careful that your coworkers do not feel intimidated or threatened by you.

You can collect as much information as possible and share it with your coworkers.

INFORMATION ABOUT THE UNION

Ask the union organizers questions and read the union's pamphlets and other documents. Also, review the union's web site for more information. See [*“What Should I Consider When Deciding Whether To Sign A Union Card Or Not?”*](#)

INFORMATION ABOUT YOUR EMPLOYER

When asked questions about working conditions, good employers will try to give their employees as much information as possible and to help them make informed decisions. The law does not stop you from asking your employer questions about unions. But, the law does limit how your employer can answer your questions.

You can talk to a labour lawyer or labour relations consultant. These professionals are usually very willing to discuss these types of situations with employees and may be able to direct you to resources that suit your needs.

If you know other coworkers who share your views you can work together to promote your shared views. You can also hold your own meetings to discuss unions, if you want.

Make sure you express your views accurately when you decide to sign or not to sign a union card. If you support the union, you should sign a union card. However, if you don't support the union, oppose it, or just don't want to be represented by it, don't sign a union card. If you feel this way and have signed a card, perhaps under pressure from a union organizer, you may want to write to the union to revoke your membership with them. If you're going to do this, you should ask for a copy of the union's constitution, in case there are specific steps that have to be taken in order to revoke a membership. In any event, if a vote is held, make sure to cast a ballot and express your true wishes not to be represented by the union.

You may wish to wear something like a button or T-shirt that expresses your opinion. Before you do this, think about whether it suits your workplace. Be sure to inquire into your employer's policy about dress codes, uniforms, and wearing buttons or T-shirts with logos.

WILL I GET TO VOTE ON WHETHER THERE IS A UNION OR NOT?

Probably not. It's possible for your workplace to become unionized without a vote. In fact, no one has to tell you the Union is trying to unionize your workplace. It's quite possible you could go to work one day and find out a union represents you.

If the union files Unfair Labour Practices complaints against your employer there may be a hearing. Such Unfair Labour Practices might also lead the New Brunswick Labour and Employment Board to not accept any employee opposition to unionization such as evidence of cancelled union cards.

If you do get a chance, you should express your opinion using a union card. If you support the union and want to be represented by it, sign a union card. If you don't support the union, oppose it, or just don't care one way or the other, don't sign a union card or cancel any card you have already signed.

Here are the rules about voting:

- If more than 60% of your coworkers sign union cards, your workplace will be unionized and there will be no vote.
- If more than 50% of your coworkers sign union cards, your workplace will probably be unionized without a vote.

- It's possible for you to get a chance to vote, if the union applies for certification with the support of less than 60% of your coworkers. But, this is unlikely because the union doesn't usually risk the vote. Instead, it keeps trying to get 60% of the people to sign union cards.

If there is a vote, usually, every employee the union wants to represent gets one vote. So, if you support the union, vote for it. Otherwise, vote to oppose the union. If the secret ballot vote shows that most (50% + 1) of those who voted support the union, your workplace will be unionized. Otherwise, the union loses and you continue to union-free and will have the right to deal directly with your employer.

For example, if your workplace has 100 employees who would be in the bargaining unit and 30 employees voted and at least 16 of those voted for the union, then that whole part of your workplace, including you, are unionized. So, participating in such a vote is very important.

WHAT IF I JUST DON'T CARE?

It's your choice to be indifferent. For you, the question "Do I want the union to represent me or not?" may have no clear or easy answer.

But, since unionization of your workplace will affect you, this is not a choice to be left to others. Get as much information as you can about the union soliciting you and about unions in general. Spend some time thinking about it. If you don't vote, others will be deciding for you whether you will be represented by a union.

If, after considering your options, you still don't care, don't sign a union card and don't vote. At least this way the choice is made by those who care, one way or the other, about whether there is a union or not.

CAN WE 'TRY THE UNION OUT' FOR A FEW MONTHS?

While it sounds simple, it may be very difficult. There are also a few things you need to know about, if you are considering "trying the Union out":

- There are rigid rules about when you can apply to decertify (get rid of) a union. These rules vary across Canada from a low of 10 months to a high of nearly three years. See [“How Do I Decertify a Union?”](#) for details.
- There are also complicated rules and procedures to follow when trying to get rid of a union. You have to follow these rules precisely or the Labour Board may ignore your attempt.
- The union and its supporters may try to stop you from getting rid of the union.

Joining a union is not like joining a club. When you join a club you usually find out what the rules are up front. Has the union given you a copy of all of their rules that may affect you? Some clubs let you try them out – give you time to decide. You can't really try out a union in the same way. Finally, quitting a club is usually easy. Quitting a union that has a Collective Agreement can lead to the loss of your job. Decertifying (getting rid of) the union can be difficult. During a drive it is never true that you have to sign a card.

WHAT CAN THE UNION GUARANTEE?

The only things a union can guarantee are things it can control. For example, things like rules of membership and union dues.

The union may promise you many things but there are only a few that they can guarantee:

- Your obligation to pay union dues or fees.
- The application of the union's rules to you as a member – to discipline you or terminate your membership which may require, in some provinces, your employer to fire you.
- The possibility of being on strike or of being locked out of your workplace.

A union can't guarantee job security because it doesn't control the market. How can a union make promises about business conditions and profits? How can unions guarantee steady work? Seniority rights are not the same as job security - if you are more qualified for a position, but are not the most senior, is this the kind of job security you want? If you need and have or want flexible scheduling do you want seniority (length of service or employment) to decide who gets what schedule and control scheduling changes? If you are the best performer, do you want the length of

employment of a lesser, or even the weakest performer, to determine who is laid off?

A union can't guarantee better wages and benefits. Unions may set goals for bargaining wages. Sometimes, these goals can be very attractive and exciting. But, they're not promises or guarantees. There are no automatic increases in wages or any benefits just because there's a union. All union demands need to be bargained between the union and your employer and if they can't reach an agreement there may be a strike or lockout. Will the union pay you your same wage during a strike? – ask them – it rarely happens.

Everything must be negotiated with your employer. The union cannot guarantee what it cannot force your employer to do or that your employer is unable to give. The union may make many promises to you but there is little you can do to hold them accountable for any broken promises.

WHAT WILL HAPPEN, IF THE UNION IS CERTIFIED?

If the union is certified, the legal nature of your relationship with your employer will be totally changed.

Most importantly, by law, unionized employees lose the right to represent themselves. Instead, at union meetings, members vote on what they want the union to try to get on their collective behalf. Those things that get the most votes often become the union's goals when it starts bargaining with the employer.

Bargaining between the employer and the union is called collective bargaining. Any deal they reach is called a Collective Agreement. But, if they can't reach a deal sometimes there is a strike or lockout or maybe the members get rid of the union.

Finally, because the law gives some of your rights to the union, you are no longer able to negotiate or make changes to things like pay and hours (or any other working conditions) directly with your employer. Instead, only the union can make changes to your working conditions (that the employer agrees to or is ordered to make). It doesn't matter if it's a large change or just a small one. If you're in a union, you usually need to ask the union for permission or have a 'union rep' do it for you. Also, the union can decide to not address your concern with your employer.

WHAT IS IN A COLLECTIVE AGREEMENT?

It depends. Collective Agreements differ by industry, by employer and even by business location. Most use a similar format and are made up of various clauses, sub-clauses, appendices, tables, and schedules. Topics often covered are:

- When strikes and lockouts can occur
- Hours of work
- Classes of employees
- Pay and wage schedules – usually groups of employees are paid the same regardless of effort and performance
- Hiring and job assignments
- Layoffs
- Technological change
- Safety rules
- Rules of discipline
- The life span of the Collective Agreement
- A process for dealing with disagreements
- A process to collect union dues

WHAT DO UNION DUES GET USED FOR?

If a union is certified and there is a Collective Agreement, everyone in the bargaining unit pays dues – even if you did not sign a card, even if there was a vote and you voted no.

Unions incur costs while providing their services to their members. Since they don't sell any products, the union's expenses must be paid by its members - mostly by way of union dues. While amounts differ by union, union dues might then go to cover:

- Salaries and benefits of office staff, secretaries and officers
- Office space and supplies
- Payments to the labour congress, the national union or the international union or all three lobby groups and various other political efforts
- Travel and vehicle rental
- Political parties and social causes the union leadership decides to give your money to
- Handling grievances, collective bargaining and coordinating representatives
- Research concerning pay, contract language and job descriptions
- Legal fees
- Strike funds
- Training representatives
- Newsletters, publications and web sites

- Entertainment and recreation

There can also be initiation fees, fines, special assessments for a range of reasons. Ask the organizer for a complete list of fees, fines and current or past special charges.

WHAT ABOUT STRIKES AND LOCKOUTS?

Strikes and lockouts can only happen if you're unionized. A "strike" happens when the union members refuse to work. A "lockout" happens when the employer stops letting union members go to work. In Canada, millions of working days are lost to strikes and lockouts each year.

Unions go on strike for lots of reasons, including:

- To support bargaining demands
- To pressure concessions
- To show support for other workers' causes

The Union will likely be required to take a "strike vote" before it can begin a strike. Once the union has a strike mandate, the decision to go on strike is the union's alone.

Employees on strike may get strike pay from the union, but this is usually only enough to pay for their basic needs. By the way, the current Employment Insurance program does not allow an employee to collect EI benefits while on strike.

You may be able to work elsewhere but usually the union requires you to picket your workplace. The union can discipline you or even threaten to terminate your membership (so that, in some provinces, your employer may have to fire you) to get their way. Some employees have been fined or threatened with termination of employment by the union, simply for doing their own jobs during a labour dispute – a strike or a lockout.

WHAT ABOUT UNION POLITICS?

A union is a political organization. Its members may hold meetings to elect leaders and set common goals. Those members who attend the local union meetings will get to vote on what they think is important and, unless the national or international union steps in, these decisions usually steer the local union. Often these votes are by show of hands and not by secret ballot.

But, like most political groups, the skills, attitudes and motives of union leaders and members will vary. We suggest that if you are thinking about supporting the union, you should consider these things.

- Find out as much as you can about the union - at the local level and the national or international level.
- Who are the leaders?
- Who else do they represent?
- What do they think is important to members?
- What's their track record on strikes and lockouts?

You should also try to collect information about your coworkers and what their goals, attitudes and motives might be. Once certified, those individuals will vote on what they want the union to do. For example, they may decide that they want to trade current pay for pensions or maybe the other way around - trade pensions for current pay. Because your coworkers will vote things that affect your work conditions, it is a good idea to consider what they will want and what is important to them.

WHAT WILL HAPPEN, IF THE UNION IS DECERTIFIED?

Decertification basically means getting rid of a union. It happens when a majority of employees no longer support the union or don't want the union to represent them.

If a union is decertified, the legal nature of your relationship with your employer will be totally changed again. Without a union, there would be no collective bargaining, the current Collective Agreement would be cancelled, you would no longer have to pay union dues and you would no longer risk going on strike or being locked out.

In the place of collective bargaining, you and your coworkers would regain your rights to deal directly with your employer on an individual basis concerning pay, benefits, hours of work and other working conditions.

Sometimes other unions may push for decertification so that they can “raid” or take you over and become the union that represents you.

HOW DO I DECERTIFY A UNION?

See [How To Decertify A Union](#).