



# A Guide to Alberta's Labour Relations Laws

Copies of the *Labour Relations Code*, the *Public Service Employee Relations Act*, and the *Police Officers Bargaining Act* are available for viewing or printing on the Board's website at [www.alrb.gov.ab.ca](http://www.alrb.gov.ab.ca) or by contacting the Queen's Printer at:

Queen's Printer Bookstore  
5th Floor, Park Plaza Building  
10611 - 98 Ave  
Edmonton, AB T5K 2P7  
Phone: (780) 427-4952  
Email: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Web: [www.qp.alberta.ca](http://www.qp.alberta.ca)

**Caution:** This guide has no legal authority. The Labour Relations Code, the Public Service Employee Relations Act and the *Police Officers Collective Bargaining Act*, including any amendments, must be consulted for actual wording. This guide is intended as a plain language reference to the legislation, the Board's policies and its practices.

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**Revised: March 2021**

**\*Labour Relations Code references have not been updated since legislation changes in 2017.**

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## Message from the Chair

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Welcome to the newest version of the Alberta Labour Relations Board's *A Guide to Alberta's Labour Relations Laws*. Since its creation in 1986, this publication has proven to be an invaluable source of information about Alberta's labour relations laws and an introduction to some of the Board's processes. The *Guide* provides an overview of the key provisions of the legislation administered by the Alberta Labour Relations Board. This legislation includes the *Labour Relations Code*, the *Public Service Employee Relations Act* and the *Police Officers Collective Bargaining Act*. It is this legislation and the Board's decisions that are the principle sources of authority in the Board's daily work.

The *Guide* is a key component to the Board's broad educational function, reaching across Alberta and throughout the country. In addition to the *Guide*, the Board also publishes Information Bulletins, Rules of Procedure and [Voting Rules](#). These publications are statements of the Board's formal policies and practices and help the Board in its decision-making and staff in their daily work. The Board also, though occasionally, publishes [discussion papers](#). These papers are of specific interest to the labour relations community and cover a variety of labour relations matters. Lastly, the Board publishes the [Policy and Procedure Manual](#). This manual is intended as a 'how-to' guide and training tool.

Currently, the *Guide* is available in electronic format from the Board offices in Edmonton and Calgary. Along with its other publications, the *Guide* is available for viewing or printing on the Board's website [www.alrb.gov.ab.ca](http://www.alrb.gov.ab.ca).

The mandate of the Alberta Labour Relations Board supports the fair and equitable application of Alberta's collective bargaining laws. The Board fulfills its mandate by administering, interpreting and enforcing Alberta's collective bargaining laws in an impartial, knowledgeable, efficient, timely and consistent way. The Board has a strong commitment to education and early dispute resolution and encourages all parties to a labour relations dispute to consider options for resolution before a matter reaches the hearing stage.

The *Guide*, in addition to the Board's other publications, provides current information and clear guidance to the public, new clients, and the everyday labour relations practitioner. This creates an understanding of the Board's jurisdiction and processes and knowledge of possible outcomes, all of which are important to resolving issues and strengthening working relations. The Board believes that parties well informed about their legal rights and obligations and have strong working relations, will usually act responsibly.

*Nancy Schlesinger*  
Chair, Labour Relations Board

# Contents

<a href="#"><u>Why Have a Guide?</u></a>	4
<a href="#"><u>Labour Relations in Alberta</u></a>	5
<a href="#"><u>Labour Relations Board Membership</u></a>	9
<a href="#"><u>Trade Union Bargaining Rights</u></a>	28
<a href="#"><u>Collective Bargaining</u></a>	38
<a href="#"><u>The Collective Agreement in Operation</u></a>	49
<a href="#"><u>Unfair Labour Practices</u></a>	54
<a href="#"><u>The Public Service Sector</u></a>	59
<a href="#"><u>The Construction Industry</u></a>	62
<a href="#"><u>Publications</u></a>	70
<a href="#"><u>Glossary of Labour Relations Terms</u></a>	72

## Why have a Guide?

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The [Labour Relations Board](#) (“the Board”) has prepared this Guide to the Labour Relations Code (“the *Code*”) the Public Service Employee Relations Act (“the *PSEERA*” or “the *Act*”), and the *Police Officers Collective Bargaining Act* (“the *POCBA*”) to help employees, employers, trade unions, students and the public understand the legislation and how it is administered by the Board.

Legislation changes from time to time and the policies of the Board in interpreting and administering the law change and evolve. The staff of the Labour Relations Board cannot provide legal or other advice but they may be able to describe the Board’s policies and procedures and provide appropriate direction concerning sections of the *Code*, the *PSEERA* or the *POCBA*.

For further information or an electronic format of this Guide, please contact:

Manager of Settlement  
Labour Relations Board  
Deerfoot Junction  
3308, 1212 - 31st Ave NE  
Calgary, AB T2E 7S8  
Phone: (403) 297-4334  
Fax: (403) 297-5884

Director of Settlement  
Labour Relations Board  
501, 10808 - 99 Ave  
Edmonton, AB T5K 0G5  
Phone: (780) 422-5926  
Fax: (780) 422-0970

This Guide is also available on the Board’s website at [www.alrb.gov.ab.ca](http://www.alrb.gov.ab.ca).

For information about the mediation processes, arbitration, or certain collective bargaining provisions contained in the legislation, contact:

[Labour  
Mediation Services](#)  
702, 10808 - 99th Avenue  
Edmonton, AB T5K 0G5  
Phone: (780) 427-8301  
Fax: (780) 427-6327

# Labour Relations in Alberta

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[The Labour Relations Board](#) (“the Board”) administers the Labour Relations Code (“the *Code*”), the Public Service Employee Relations Act (“the *PSEERA*”) and the Police Officers Collective Bargaining Act (“the *POCBA*”). This legislation applies to most unionized employees in the province, but excludes employers and employees in farm or ranch labour, domestic work and in industries falling under federal jurisdiction, such as airlines, railways, interprovincial trucking and shipping, and telecommunications. Self-employed workers are not covered by the *Code*. Some other employees in Alberta have their labour relations governed entirely by a special act, such as the Post-secondary Learning Act, or partially so, as is the case under the *Police Officers Collective Bargaining Act* and the School Act.

The *Code* also excludes people who, in the Board’s view, act as managers or who are employed in a confidential capacity in matters related to labour relations. It does not apply to doctors, dentists, architects, engineers, nurse practitioners and lawyers while they are employed in their professional capacities ([Section 1\(l\)](#)).

The *Code* outlines the rights and responsibilities of employers, trade unions and employees in labour relations.

In Alberta, the *Code* guarantees that employees have the right to collective bargaining with employers. The *Code* creates ways for employees to choose trade union representation. The *Code* describes how a trade union bargains with an employer over terms and conditions of employment to arrive at a collective agreement. Rules are set out that govern the labour relations activities of trade unions, employers and employees.

The *PSEERA* gives similar rights and responsibilities to employers and employees in the provincial government and its agencies. Significant differences between the *Code* and the *PSEERA* are outlined in the [Public Sector Section](#) of this Guide. While the main provisions affecting public sector employees are in the *PSEERA*, a number of procedural powers the Board uses to deal with public service matters come from the *Code*.

The *Code* does not apply to police officers. Instead, the *POCBA* governs municipal police forces. This legislation creates “in-house” police associations as employee bargaining agents. The *POCBA* gives the Board the authority over matters such as gaining or losing bargaining rights, unfair labour practice complaints and determinations.

The *School Act* gives the Board authority over certain provisions such as terms relating to transfers, suspensions, termination and temporary positions.

This guide is divided into nine sections, as described below.

### **The Labour Relations Board**

The Board is the independent and impartial tribunal responsible for the day-to-day application and interpretation of Alberta's labour laws. It processes and investigates applications and makes policy decisions.

The Board actively encourages parties to settle their disputes through honest and open communication. The Board offers informal settlement options to the parties, but also holds hearings and makes binding rulings whenever necessary.

There are Board offices in Edmonton and Calgary.

### **Trade Union Bargaining Rights**

The certification system allows employees to decide in a democratic way whether or not they wish to be represented by a trade union. A Board certificate, if granted, gives a trade union bargaining rights on behalf of a group of employees. Similar procedures allow changes to, or cancellation of, these bargaining rights, as the circumstances of employment or the wishes of the employees change.

### **Collective Bargaining**

Collective bargaining is the process of bargaining between a trade union and employer or employers' organization over the terms and conditions that will govern the employment for a particular group of employees. These terms and conditions form a binding contract called a collective agreement. When a union is certified, or toward the end of an existing collective agreement, a notice to bargain will start the bargaining cycle. Negotiation meetings follow, with mediation available to encourage settlement.

Usually, a collective agreement can be arrived at through open and honest discussion. In some cases, however, disputes may occur during negotiations, which may lead to a strike or lockout. The *Code* imposes certain restrictions on strikes and lockouts, their timing or the service of notice. During any strike or lockout, the Labour Relations Board can regulate picketing activities.

### **The Collective Agreement in Operation**

A collective agreement sets out terms and conditions of employment such as wages, holidays and seniority. It covers all employees in a bargaining unit, as defined in the agreement. The

*Code* gives trade unions certain rights and responsibilities in respect of the collective agreement and the employees they represent.

An important feature of any collective agreement is the mechanism used to resolve disputes about the agreement's meaning or application, usually by a grievance procedure and arbitration.

### **Unfair Labour Practices**

To protect the rights and responsibilities it confers, the *Code* sets out rules of conduct for labour relations. Breaking the law by violating these rules of conduct is often called an unfair labour practice. The *Code* gives the Labour Relations Board the task of resolving unfair labour practice complaints. The Board can inquire into such complaints, hold hearings and issue decisions to remedy any conduct found to be contrary to the *Code*.

### **The Public Service Sector**

Collective bargaining in the public sector is governed either partly or entirely by special legislation that reflects the historical development of collective bargaining in the public sector and its special labour relations environment.

### **The Construction Industry**

The construction industry represents a significant and unique part of the work force, and the *Code* establishes some special procedures and a special bargaining cycle for that industry.

### **Publications**

In addition to this Guide, the Board produces several resources such as its [Information Bulletins](#), [Rules of Procedure](#), [Voting Rules](#), [Discussion Papers](#) and [Policy and Procedure Manual](#) which serve as educational and 'how-to' guides for Board staff, members and the general public. All resources are available from the Board offices in Edmonton or Calgary and as well, online at [www.alrb.gov.ab.ca](http://www.alrb.gov.ab.ca).

### **Glossary of Labour Relations Terms**

Various terms, commonly used among labour relations practitioners and throughout the Board's publications.



# The Labour Relations Board

<a href="#"><u>Labour Relations Board Membership</u></a>	9
<a href="#"><u>Labour Relations Board Staff</u></a>	20
<a href="#"><u>Labour Board Proceedings</u></a>	23
<a href="#"><u>Decisions and Judicial Review</u></a>	24
<a href="#"><u>Trade Union Records</u></a>	25
<a href="#"><u>What the Labour Relations Board Does Not Do</u></a>	25

# Labour Relations Board Membership

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The Labour Relations Board (“the Board”) is made up of a Chair, full-time and part-time Vice-Chairs and a number of part-time members, representing both labour and management sides. All members are appointed by the Lieutenant-Governor in Council for their experience with and knowledge of labour relations.



## **Nancy Schlesinger – Chair and Essential Services Commissioner**

Nancy Schlesinger first worked for the Board in 1996, when she joined the Board for a six-month secondment as legal counsel. She returned to the Board in October 1999 to work as legal counsel and was appointed to the position of Vice-Chair in January 2002. Nancy previously worked as legal counsel at the Alberta Court of Appeal, where she assisted the appeal justices with their work. She is a graduate of the University of Alberta Law School and clerked with the Alberta Court of Appeal and Court of Queen's Bench before completing her articles at the law firm of Witten Binder.



## **William J. Johnson, Q.C. - Vice-Chair**

Mr. Johnson has practiced labour law in Alberta for 30 years. As a partner of the law firm McGown Johnson, Bill acted on behalf of unions and employees before arbitration boards, labour relations boards, Human Rights Commissions and the Courts. He has a diverse background in labour and employment law with exposure to numerous sectors of the economy (retail, industrial, health care, public sector, transportation, entertainment, communications, education, construction and utilities). In 2002, the Province of Alberta appointed Bill as a Queen's Counsel, and in 2011, he was inducted into the College of Labor and Employment Lawyers. Bill has been frequently listed in LEXPERT magazine to the Leading 500 Lawyers in Canada in the area of employment and labour law. Since 2013, Bill has been a member of the Alberta Human Rights Commission. In the 2016 Chambers Canada, Canada's Leading Lawyers for Business journal, the authors comment on Bill states, "William Johnson commands 'a national reputation' as a 'highly sophisticated' and 'very well respected' union-side employment lawyer".



## **Lyle Kanee, Q.C. – Part-Time Vice-Chair**

Mr. Kanee has worked in Toronto and Edmonton with union-side law firms. He has been a sessional instructor in labour law at the University of Alberta and has presented at a number of conferences. He has been involved in negotiating collective agreements, resolving workplace grievances, and presenting cases before the Board. His practice has included civil litigation, pension and benefit issues, disability insurance claims, class actions, and human rights matters, and he has represented clients' interests before human rights and professional tribunals, and all levels of the courts including the Supreme Court of Canada.



**Ian Smith – Vice-Chair**

Ian Smith was appointed a full-time Vice-Chair in November 2013. Prior to joining the Board, Ian was a partner at Miller Thomson LLP in Edmonton where he practiced labour and human rights law. He has represented clients' interests before arbitrators, administrative tribunals and all levels of the Alberta courts. Ian is a graduate of the University of Alberta Faculty of Law.



**Jeremy Schick - Vice-Chair**

Jeremy Schick was appointed a full-time Vice-Chair of the Labour Relations Board in September 2019. He previously acted as Legal Counsel for the Board since 2013. Before joining the Board, Jeremy practiced labour and employment law, administrative law, and civil litigation, on behalf of employers, employees, school boards, and other agencies, boards and commissions. He also previously taught as a Belzberg Lecturer with the University of Alberta Faculty of Law, teaching legal research, writing and advocacy. Jeremy is a graduate of the University of Alberta (B.Com. 1996, LL.B. 1999), and clerked for the Alberta Court of Appeal and Court of Queen's Bench before being called to the bar in 2000. In his spare time, Jeremy volunteers and acts with various community theatre groups in Edmonton.



**Bertha Greenstein – Vice-Chair**

Bertha Greenstein was called to the bar in 1990 and has practiced labour law representing both unions and employers in Ontario and Alberta. In 2003, Bertha became a labour mediator, facilitator and trainer and was on the Alberta Provincial Mediation Roster. Bertha was formerly the Executive Director of Mediation Services for the Government of Alberta and more recently was the Executive Director of Negotiations and Labour Relations at Alberta Health Services. Bertha Greenstein holds a B.Ed (McGill) and an LL.B (University of Toronto).



**J. Leslie Wallace - Vice-Chair (Part-Time)**

J. Leslie (Les) Wallace is a labour relations neutral who arbitrates and mediates disputes in the Alberta and federal jurisdictions. Les has 10 years of experience as an arbitrator and 20 years of experience with the Alberta Labour Relations Board as staff solicitor (9 years) and vice-chair (11 years). Les holds a B.A. in History and an LL.B from the University of Alberta.



**Ayla Akgungor - Vice-Chair**

Ayla Akgungor is a partner with Field Law. She practices in the areas of labour and employment law, human rights and professional regulation and is the Practice Group Leader for Labour and Employment in Edmonton. Prior to joining Field Law in 2001, Ayla clerked for the Alberta Court of Queen's Bench and the Alberta Court of Appeal. Ayla has appeared before several administrative tribunals including the Alberta Human Rights Commission, the Alberta Labour Relations Board, arbitration boards, the Employment Insurance Board of Referees and Umpire, *Canada Labour Code* adjudicators, professional discipline tribunals and various levels of court in both Alberta and the Northwest Territories. She is the Co-Editor of the Thomson Reuters text, *Remedies in Labour, Employment and Human Rights Law*. Ayla was appointed as a Vice-Chair of the Alberta Labour Relations Board in February 2019.



**Bill Begemann – Member**

Bill has been a member of Local 424 of the International Brotherhood of Electrical workers for over thirty years. He has worked in various positions throughout his 17 year tenure within the business office of the Local Union and is currently working as an Assistant Business Manager for the membership of Local 424. As a result of his experiences he has been involved in all facets of organizing, grievances, arbitrations, board hearings and negotiations. He has sat on numerous Industry boards and is an active participant in the Labour community.



**Brent Bish - Member**

Brent Bish has been an executive member of United Mine Workers Local 1656 for the past 20 years and is currently the President and full time officer. Brent has served on numerous municipal boards, two terms as Town Council and served two terms on the Alberta Apprenticeship and Industrial Training Board. He attended college in Prince George in the business program.



**Paul Bokenfohr - Member**

Paul Bokenfohr has over thirty years of experience in the labour relations and human resources management field. He has practiced in a number of different industries including education, construction, oil, brewing, telecommunications and technology. He has held positions in Construction Labour relations- Alberta, Suncor, Labatt's and TELUS. Paul holds a BA and MBA from the University of Alberta.



**Allan Brown - Member**

Allan has served as the Labour Relations Officer for the SAIT Academic Faculty Association since December of 2010. His responsibilities include grievance handling, conflict resolution, contract negotiations and arbitration presentations on behalf of the Faculty Association. Mr. Brown's Labour Relations experience began with the International Brotherhood of Electrical Workers Local 424 where he worked for 12 years in Membership Development and eventually Assistant Business Manager. Allan has developed a broad knowledge of the Alberta Labour Relations Code and practices as they pertain to Union Certification, Negotiating Collective Agreements, Interpreting and servicing Collective Agreements, Grievance and Arbitration cases.



**Jennifer Burns - Member**

Jennifer has a LL.B. from Osgoode Hall Law School and a Bachelor of Arts from the University of Toronto. She was called to the bar in Alberta in 1996. For most of thirty years, Jennifer worked with Extencicare Canada Inc. in various roles, primarily in the areas of labour and employment, and then with The Good Samaritan Society as Vice-President, HR and Legal Counsel. Jennifer currently works as Vice President, Human Resources at Shepherd's Care Foundation. Aside from serving numerous terms with the Alberta Labour Relations Board, Jennifer served as a Tribunal Member with the Alberta Human Rights Commission from September 2010 to June 2013.



**Pemme Cunliffe – Board Member**

Pemme Cunliffe - Pemme is in-house counsel at Covenant Health responsible for Labour and Employee relations. Her background includes 30 years as a nurse and a health care administrator and seven years in law. Her responsibilities include labour and employee issues, grievances and arbitrations, wrongful dismissal and other employment-based complaints, collective agreements, policies on compensation and benefits and managing Human Rights.



**Clayton Davis - Member**

Clayton Davis is the Executive Director, Human Resources, at NAIT. He provides strategic HR direction and is accountable for labour relations matters. He started his labour relations involvement in the 90s with the Alberta healthcare sector, including a number of years with Alberta Health Services, then shifted to post-secondary in 2005. Clayton is an active community volunteer, with a focus on STEM initiatives for young people. He has held board roles for a variety of local non-profit organizations.



**Rick Eichel - Member**

Rick Eichel has been a Teamster member since 1976 and has been the President of the Teamsters, Local 362 since 1996. Mr. Eichel is responsible for assisting in the administration of the Local as well as negotiating and servicing the membership in all aspects. This Local has over 6,000 members working under 100 different collective agreements of which Mr. Eichel has negotiated approximately 200 collective agreements. He is also a Joint Council 90 President and Chairman of the Board of Trustees covering two pension and two health and welfare plans for the prairie provinces.



**Geoffrey Eustergerling - Member**

Geoff Eustergerling is Senior Advisor, Labour Relations, working for ATCO, a global company with nearly 6,000 employees. In his role, Geoff maintains labour relationships across Canada. This includes collective bargaining, grievance resolution, and third party litigation. Through his career, he has gained experience in health care, public education, construction, hospitality and maintenance labour relations. Geoff has negotiated over a dozen collective agreements for employee groups across the country. Geoff holds a BComm from the Haskayne School of Business and has had a CPHR designation since 2016.



**Kristine Farkas - Member**

Kris Farkas is a labour relations consultant in Alberta with degrees in both commerce and law. After several years in private practice, focusing on labour law, Kris joined United Nurses of Alberta, initially as a Labour Relations Officer, and for ten years as Manager of Labour Relations. She has acted as Union Counsel at arbitrations, labour board hearings, professional conduct hearings, and various levels of court. Kris also has experience negotiating collective agreements, for groups ranging in size from less than twenty to more than 20 thousand.



**Raelene Fitz - Member**

Raelene Fitz works as a Lead Negotiator for Alberta Health Services responsible for collective bargaining, contract administration, dispute resolution, developing interpretive guides and resources, and providing expertise to strategic initiatives and projects. Raelene's career in human resource management and labour relations includes experience in the construction industry and the health care sector. Raelene holds a Bachelor of Arts Degree from the University of Alberta and Diploma in HR Management from MacEwan University.



**Lynda Flannery - Member**

Lynda Flannery brings over 30 years of experience in human resources, specializing in labour and employee relations, to the Board. Her experience encompasses the public and private sectors and several industries: construction, oil and gas (operations plus pipeline and up-grader major projects), municipalities and health care. Lynda began her professional career as a labour economist, and progressed through various construction project management and human resources management positions. In all her roles, she introduced innovative and practicable approaches to all aspects of human resources and sought to and was successful in improving employee and labour relationships and processes. She has an Honours and a Master of Economics degree from U of A and Queens University respectively, as well as a Masters degree in Applied Behavioral Science from Bastyr University (Washington, USA). She was first appointed to the Board in 1985/86 and served until 2010. At that time she retired to meet family obligations.



**Jody L. Fraser - Member**

Jody Fraser is a senior human resources practitioner with extensive experience in employee and labour relations. In her 15-year career, Jody has excelled in relationship management, change initiatives and coaching techniques. She has thrived in employee and labour relations roles through her work in both the private sector and at post-secondary institutions, including in her current position as Manager, Labour Relations at SAIT. She excels at developing strong relationships and recognizes the needs of various stakeholders. Jody has a Bachelor of Arts, Psychology, a Bachelor of Arts (Honours), Drama in Education and has completed

certificates in negotiation skills and organizational design through Queen's University's Industrial Relations Centre. She also holds a Management Certificate in Human Resources from the University of Calgary.



**Nancy Furlong - Member**

Nancy Furlong has worked in the Alberta labour movement for over 35 years. She has established a credible reputation as an accomplished facilitator, communicator and advocate. From 2007 to 2013, Nancy held a full time elected position with the Alberta Federation of Labour which deepened her broad understanding of the complexities of both private and public sector labour relations. Her wealth of experience includes representing unions in rights and interest arbitration, contract negotiation and administration. Nancy's unique perspective comes from the variety of roles she's held while working full time for unions including representation, education, administration and management. Following recent experience with an energy sector union in Ontario she returned to Alberta to take up her current post as Director of Operations at the Non-Academic Staff Association, University of Alberta, representing over 6,000 members and managing ten staff and numerous volunteers.



**Corinne Galway - Member**

Cory Galway is a Senior Negotiator with Alberta Health Services. Since 1995 she has negotiated on behalf of a variety of health care employers and is/was responsible for collective bargaining, grievance management and consultation, dispute resolution, project management and employee benefits. Cory has a Commerce Degree from the University of Alberta and a mediation certification with the Alberta Arbitration and Mediation Society. Previously, Cory was a board member and volunteer for the Strathcona County Mediation Society.



**Carol Graham - Member**

Carol is currently a Management Consultant with over 25 years experience working with public, private and non-profit organizations. Her experience is creating and implementing successful human resource strategies in a challenging and constantly changing environment. She has provided a leadership and mentoring role while involved with a number of reorganizations focusing on strategic planning, change management and the evaluation of various initiatives. Carol's legal education and experience as an advocate in court and in front of a number of administrative panels has assisted in the development and presentation of training and orientation programs dealing with a number of legal topics, including reasonable accommodation, collective bargaining and privacy. Carol is a member of the Alberta Labour Relations Board and deals with matters under the *Labour Relations Code* and the *Public Service Employee Relations Act*. She also frequently sits on Arbitration Boards as an Employer nominee.



**David Harrigan – Member**

David Harrigan is the Director of Labour Relations at the United Nurses of Alberta, a position he has held since 1990. Prior to that, he held other positions with UNA, including Local President, Provincial Vice President, and Labour Relations Officer. As the senior staff member at UNA, which represents over 24,000 Nurses throughout province, Harrigan has over-all responsibility for all labour relation activities, including organizing, education, membership services, negotiations, grievances and arbitrations. He has appeared in numerous arbitrations and labour relations board hearings, and acts as chief negotiator of the union. Prior to joining UNA, David was a Registered Psychiatric Nurse.



**Thomas Hesse - Member**

Tom has been active in labour relations for close to 30 years. Tom's most recent position is executive assistant to the President of Local 401 of the United Food and Commercial Workers International Union. Previous positions he has held in the organization include: service representative, director of advocacy, negotiator and director of education and communications. Tom has his Bachelor of Arts (Hons) in Economics and Social Psychology. Tom was a previous Board Member from 2002-2014 and was reappointed in 2016.



**Bill Kolba - Member**

Bill Kolba - Bill is a retired National Representative with the Communications Energy & Paperworkers' Union with extensive experience in servicing local unions and organizing unorganized workers. He served as President of the union's Composite Local 777 while working at CILVAT Plastics. He also served as a Board Member for over nine years on the Employment Insurance Board of Referees as well as serving on the Executive Board of the Energy and Chemical Workers Union.



**Mike Kozielec - Member**

Mike Kozielec possesses over 30 years experience in all key aspects of labour relations acquired through advisory and leadership roles in public sector organizations across several jurisdictions (Alberta, Federal, Ontario). Mike was an Alberta Labour Relations Board officer and later continued his labour relations career with Canada Post in its head office, City of Ottawa, City of Calgary, and the University of Calgary. His work experience includes collective bargaining, rights & interest arbitration, developing and applying strategies to enhance positive workplace relationships. Mike is currently a director of consulting firm K. Gerbasi Research Inc., and also teaches labour relations and human resources development courses at SAIT. He also serves as a member of Parks Canada - Development Advisory Board.



**Jacqueline Lacasse - Member**

Jacqueline Lacasse is the Director of Labour Relations at the University of Calgary and is responsible for collective bargaining, contract administration, program and policy development, grievances and arbitrations and labour relations training. Prior to joining the University, Jacqueline practiced labour and employment law in private practice and as in-house legal counsel for Alberta Health Services. Jacqueline is an active community volunteer and has held board roles for a number of local non-profit organizations.





**Darren Leclair - Member**

Darren Leclair works as Manager, Labour Relations with AgeCare. In his Corporate role, Darren manages Labour Relations responsibilities for the organization. He works with operations management in all facets of labour relations matters including: negotiations, grievance arbitration, management training/education and assorted daily labour and employee relations issues. Darren has over 30 years of progressive labour relations experience across several industries. Darren's experience includes field and corporate roles within multiple provinces; in both provincial and federal sectors; and within both private and public sectors. Darren is a member of the Discipline Committee of CPHR Alberta. He holds a Bachelor of Commerce (Honours) degree from the University of Manitoba and has held CPHR certification since 1999.



**Peter Marsden - Member**

Peter has over 30 years of labour relations experience in the municipal and electrical industry. Prior to his retirement in 2016 Peter spent 28 years as full-time President of Local 38, Canadian Union of Public Employees. His experience includes collective bargaining, contract administration, grievances and disputes resolution. Peter has served on many boards including Employment Insurance Board of Referees, Local Authorities Pension Plan, CUPE Alberta and his community association.



**Donna Neumann - Member**

Ms. Neumann was appointed as a member of the Alberta Labour Relations Board in 1990 and served on the Board to the expiration of her term in February 2010. Ms. Neumann's professional practice includes a considerable amount of third party neutral work. As a member of the Alberta Labour Relations Board, she was, in addition to sitting as a member of panels, assigned by the Chair to conduct informal dispute resolution activities. Techniques for same ranged through facilitation to mediation to arbitration. As well, she has served as management nominee on arbitration boards. In addition she has been asked to serve as Umpire for the United Nurses of Alberta/Alberta Health Services Relocation Committee; as Chair of the Job Review Committee for University of Calgary/Alberta Union of Provincial Employees; and Fact Finder for National Energy Board/Professional Institute of the Public Service of Canada (Federal legislation.) Her third party neutral work includes day to day resolution of conflicts within organizations as well as many assignments to investigate inappropriate workplace behaviour. These investigations involve gathering information from, and in support of, both the Complainant and Respondent, making a determination, and providing recommendations. In some cases, clients request additional assistance in implementing the recommendations.



**Crystal Norton - Member**

Crystal Norton works as a Labour Relations Representative with Construction Labour Relations – An Alberta Association (CLRA). In this capacity, her responsibilities include acting as the spokesperson representing employers in collective bargaining, contract administration, and conflict resolution for matters impacting construction contractors and their workers, along with the delivery of programs focused on healthy, safe and productive workplaces. With over 15 years of broadly based labour relations experience, she has held various Human Resources and Labour Relations positions in the healthcare, utilities, and construction industries. Her educational qualifications include a Bachelor of Management degree with a major in Labour Relations and a Master of

Business Administration degree. She has also pursued additional training in leadership, conflict resolution, and interest based negotiations and is a Certified Human Resources Professional (CHRP).



**Cal Ploof – Member**

Cal is currently the Director of Organization and Recruitment, for the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, local Union 488. Mr. Ploof has been involved in Organized Labour for 34 years obtaining experience in collective bargaining, grievance proceedings, unfair labour practice complaints, duty of fair representation complaints as well as numerous certifications and revocations.



**Daunine Rachert - Member**

Daunine Rachert was a National Representative with the Canadian Union of Public Employees for 18 years until her retirement in 2014. She has extensive experience in negotiations, organizing unorganized workers and representing CUPE Locals and members in grievances, arbitrations and at the Labour Relations Board. Ms. Rachert was a CUPE member and union activist locally and nationally for over 20 years while employed at the CBC in Calgary. She is a regular volunteer with Soup Sisters which provides nutritious homemade soup to Calgary shelters for women, children and youth in crisis.



**Brygeda Mary Renke - Member**

Brygeda Renke is the Executive Director and General Counsel for the Association of Academic Staff of the University of Alberta (AASUA) which represents over 4200 academic staff - faculty, librarians, administrative and professional officers, trust research staff, academic teaching staff, faculty service officers, and temporary administrative staff. She first joined the organization in December 2007 and took on the role of Executive Director in July 2010. She graduated from the University of Alberta with a BA (Distinction) in 1982 and then obtained her LLB from the University of Alberta in 1985. She is a member of the Law Society of Alberta in good standing with nearly 25 years of legal experience, with a focus in civil litigation and employment law. As AASUA's Executive Director and General Counsel, she has extensive experience in the post secondary sector and provides legal advice to the organization. She serves as a resource to the Association's negotiating team for collective bargaining. She represents the Association on all matters arising from the seven collective agreements, including grievances, appeals, arbitrations, and discipline matters. As well, she is responsible for all management, personnel, and financial matters, and is responsible for the effective delivery of all AASUA services and administrative duties associated with her role as Chief Administrative Officer for the AASUA.



**Al Schuster - Member**

Prior to his recent retirement, Al Schuster was the Vice President, Human Resources at Lehigh Inland Cement Limited. Among his accomplishments at Lehigh, Mr. Schuster administered 29 collective agreements and negotiated 20 of these agreements in his first year at Inland. Mr. Schuster has had experience in the Oil Industry, having spent nine years in Ft. McMurray with Suncor Inc. He has also worked in the Industrial Construction Sector and dealt with the Building Trades in both Alberta and Saskatchewan.



**Carl Soderstrom - Member**

Carl Soderstrom is the Executive Director of the Alberta Union of Provincial Employees, Alberta's largest union with a membership of over 90,000. Carl directs, coordinates, and advises the Union regarding high level strategy and tactics. He has presented numerous cases before the Labour Relations Board, arbitration panels and professional licensing boards and has negotiated and been involved in a broad spectrum of collective bargaining disputes. He has served as a member of the Alberta Labour Relations Board since 2011. Carl has also served as a Vice-Chair and Trustee to the Local Authorities Pension Plan and as a Member of the Public Service Pension Plan Board.



**Karen Thibault - Member**

Karen Thibault is the Senior MSO Advisor (southern Alberta) for Alberta's largest union, the Alberta Union of Provincial Employees. Karen began her career with AUPE as a Union Representative in 1987. As well as being involved in organizing, Karen has negotiated numerous collective agreements covering many sectors, and has extensive experience in grievance handling and dispute resolution. In her current role, Karen provides support and mentorship to the Membership Services Officers in the five AUPE southern Alberta offices. Karen is also a graduate of the Labour College of Canada.



**Kathy Vasko - Member**

Kathy is a labour relations and human resources consultant, bringing over 25 years as an experienced negotiator, mediator and facilitator to her professional practice. Specializing in the areas of conflict resolution, workplace harassment, labour negotiations, grievance and labour mediation. Kathy has distinguished herself as an effective problem solver committed to enabling the advancement of critical workplace relationships. Prior to initiating her consulting practice, Kathy's distinctive career with the Government of Alberta encompassed roles across a number of Ministries including: Director, Labour Relations, Chief Negotiator, Employer Arbitration Counsel, and Director of Human Resources. She is highly regarded for her leadership skills and relationship management expertise, particularly in facilitating effective working relationships for the employer and union. Kathy is a long standing member of the Human Resources Institute of Alberta and holds a Bachelor of Arts degree, a Certificate in Conflict Resolution, and Labour Relations Certificates.



**Sharon Vogrinetz – Member**

Sharon Vogrinetz has over 25 years of experience in labour relations. She has been employed by the Alberta Teachers' Association for 21 years, 17 years in Teacher Welfare including the last five as Coordinator where she was the responsible for leading negotiations for Alberta's 35,000 teachers. She is currently the Assistant Executive Secretary where she now negotiates on behalf of the employer with two union groups. Sharon has extensive experience in most aspects of negotiations including grievances, arbitration, interest arbitration, and requirements of the Alberta Labour Code. She holds a BMus and BEd from Western (Ontario) University, a MEd from the University of Alberta and has recently completed a post graduate diploma in Leadership and Policy Studies from the U of A.



**Dianne Wyntjes – Member**

Dianne was elected as a member of Red Deer City Council October 2010 and was re-elected October 2013. Previously, Dianne was the Alberta Regional Director for the Canadian Union of Public Employees and held that position from 1996 to 2013. Until this time Dianne was the Alberta Regional Director for the Canadian Union of Public Employees and has held that position since 1996. Prior to this position, Ms. Wyntjes was a National Representative for CUPE from 1992 to 1996. She served as a member of the Employment Insurance Board of Referees in Red Deer for 20 years. She is familiar with the deliberation of fair and reasoned decision making.

## Board Staff

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### **Tannis Brown - Director of Settlement**

Tannis Brown is responsible for the processing and disposition of applications, complaints and other matters that come before the Board. She supervises the dispute resolution activities and investigations of the Board's officers and directs the scheduling of hearings and informal pre-hearing settlement initiatives. Tannis previously served as a Labour Relations Officer with the Board from 2000 to 2004. Prior to returning to the Board as Director of Settlement in June of 2010, Tannis was the Director of Labour Relations Policy and Legislation with Human Services. Tannis is a graduate of the University of Alberta Business Faculty.



### **Jeremy Schick - Legal Counsel**

Jeremy Schick joined the Board as Legal Counsel in September, 2013. He practiced labour and employment law, administrative law, and civil litigation, with the Alberta School Boards Association and the law firm of Lucas Bowker & White/Davis & Company. He also previously taught legal research, writing and advocacy as a Belzberg Lecturer with the Faculty of Law, University of Alberta. Jeremy is a graduate of the University of Alberta law school, receiving the Judges Bronze Medal, and articulated to the Alberta Court of Appeal and Court of Queen's Bench before being called to the bar in 2000.



### **Aaron Padnivean – Manager of Settlement**

Aaron is responsible for the operation of the Board's Calgary office and management of the Board's caseload in southern Alberta. Based in Calgary, he also oversees the work of the Labour Relations Officers in both Edmonton and Calgary to ensure consistent application of the Board's policies and procedures. Aaron joined the Alberta Labour Relations Board in 2003 and has expertise in almost all areas of the Board. Aaron has also worked for the Labour Relations Policy and Legislation unit for the Government of Alberta and has served as past President of the Canadian Industrial Relations Association – Northern Alberta Chapter.



### **Janice Smith – Manager of Administration**

Janice re-joins the Board after a 20 year absence. She first joined the Board in 1989 as Trade Union Records Officer and then spent three years as the Director of Administration. Since then she has spent time working in both private industry and government. This includes teaching networking in the IT field, facilitating focus groups, managing the law firm of Ackroyd LLP for 9 years and 8 years at the Appeals Commission for Alberta Workers'

Compensation as the Manager of Operations. She also served for 5 years as a Board Member of the City of Edmonton Advisory Board on Services for Persons with Disabilities, sitting on the executive and chairing various committees.



**Gary Boim - Labour Relations Officer – Calgary**

Gary completed a one-year secondment at the Alberta Labour Relations Board in 2015 and is now working on a permanent basis. Gary graduated from the University of Regina with a Bachelor of Human Justice degree. Gary commenced working for the Government of Alberta in 2001 and came to the Board after working for over ten years at the Alberta Human Rights Commission.



**Fenton Corey - Labour Relations Officer - Edmonton**

Fenton joined the Alberta Labour Relations Board as the Hearing Coordinator in 2014 and was promoted to an LRO position in January, 2016. A graduate of Mount Allison University's Bachelor of Music program, he also serves as a military musician in the Canadian Forces. Prior to the Board, Fenton worked as a manager for Abercrombie and Fitch Co.



**Dan Galdamez - Labour Relations Officer - Edmonton**

Dan joined the Board in April 2008. Previously, Dan worked for the Health Sciences Association of Alberta (HSAA) as a Labour Researcher and a Labour Relations Officer. Prior to HSAA, Dan worked for the Governor General's Canadian Leadership Conference as an Administrator. Dan has a Bachelor of Arts (Sociology) from the University of Alberta, and a Management Studies Diploma and a Human Resources Certificate from Grant MacEwan College.



**Nailya Rakhmatulina - Labour Relations Officer - Calgary**

Nailya started her career with the Government of Alberta in 2004 after moving from Kazakhstan. Prior to joining the Board in September 2013 she worked as an Employment Standards Officer in Calgary for over six years. Nailya has completed two post graduate degrees, one in Public Administration, and the other in Business Administration. She has also obtained a PULSE Mediation Certificate after completing 40 hours of mediation training.



**Jamie Robinson – Labour Relations Officer - Edmonton**

Jamie joined the Board in April, 2016. Jamie holds a Bachelor of Commerce degree from the University of Alberta and has a wealth of human resources/labour relations experience at both the provincial and municipal levels of government. Most recently Jamie was an Employee Relations Specialist with the Government of Alberta.



**Chuck Toth - Labour Relations Officer - Edmonton**

Chuck joined the Alberta Labour Relations Board as a Labour Relations Officer in March, 2009. In a Human Resources career that spans three decades, Chuck has held several HR roles in a variety of industrial sectors. Chuck graduated from Royal Roads University in 2004 with a Master of Business Administration degree in Human Resource Management and is also a Certified Human Resources Practitioner.

# Labour Board Proceedings

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The Labour Relations Board (“the Board”) gets its authority from the legislation it administers. This legislation includes the *Labour Relations Code* (“the Code”), the *Public Service Employee Relations Act* (“the PSERA”), and the *Police Officers Collective Bargaining Act* (“the POCBA”). Through this authority, the Board acts as a neutral body to which applications, complaints, and differences are made. It is also through this authority that the Board processes, investigates, resolves or hears those matters.

Some examples of the matters the Board deals with include certification, revocation, strike or lockout applications, supervision or the conduct of various votes authorized by the Code or the PSERA, duty of fair representation and unfair labour practice complaints, reconsideration and determination applications, resolution of disputes concerning the operation of the Board’s legislation, collective bargaining process or any disputes arising from these applications. The Board’s [Information Bulletins #1](#) and [#2](#) specifically discuss Board’s proceedings and processes.

The Board also fulfills an education and communications function. It does so by publishing documents and conducting presentations throughout the community to educate the public, new clients and the everyday labour relations practitioner about the Board’s jurisdiction, its processes and proceedings. The Board has a strong commitment to and encourages ongoing education and early dispute resolution where possible. The Board encourages all parties to a labour relations dispute to consider options for resolution at all stages of its processes including the hearing stage. This commitment is demonstrated by updates to its publications and success rates concerning the resolution of matters both formally and informally.

## ***Is a Board hearing like a court trial?***

If a matter is not resolved it proceeds to the hearing stage. [Board hearings](#) are less formal than court trials. Parties involved in a matter before the Board can use a lawyer or an agent or they can represent themselves.

Like a court case, evidence is usually given under oath and witnesses may be cross-examined. Any affected party can call witnesses. However, the Board can ensure an employee’s trade union choices are kept confidential. The Board is not strictly bound by the formal rules of evidence ([Section 14\(5\)](#)).

Hearings are usually held in the Board’s hearing rooms in Edmonton or Calgary. Board panels sit regularly to hear uncontested and pre-hearing matters, with conference call and speaker phone facilities for the convenience of the parties.



Just as in a court of law, the Board's proceedings are open to the public, but only those directly affected by the matter, or their representatives, may participate.

See the Board's [Information Bulletin #4](#) and [Policy and Procedure Manual](#) for more detail regarding hearings and associated processes. In addition, the Board updates its [Hearing Calendar](#) regularly. It can also be accessed on the Board's website at [www.alrb.gov.ab.ca](http://www.alrb.gov.ab.ca).

***Do all applications made to the Board require a hearing?***

No. Board Officers investigate applications, make recommendations in disputes and assist the parties in settling their differences before the matter is scheduled for hearing. If the Officer's attempts at dispute resolution are unsuccessful, the Board may schedule a hearing during which the parties argue their positions, call evidence and make oral or written submissions.

Hearings usually take place when the issue is complex. The Board may decide not to hold a hearing if there have been no objections to an application from those affected. Similarly, some matters can be dealt with effectively by the use of written submissions.

The Board usually conducts a [Resolution Conference](#) about two weeks before a scheduled hearing. It takes place under the Board's pre-hearing process and can result in the matter being settled without a hearing.

## **Decisions and Judicial Review**

The Board's rulings are final and binding. All Board decisions can be filed in court if need be and, once filed, can be enforced as a court order. The Board issues some decisions orally at the end of a hearing and in other cases, reserves its decision and sends out a written decision later. The Board publishes its written decisions in the Alberta Labour Relations Board Reports. [Recent decisions](#) are also available on the Board's website at [www.alrb.gov.ab.ca](http://www.alrb.gov.ab.ca). The Board's decisions are also available online through [QuickLaw](#) or [CanLii](#) legal databases.

While there is no appeal from Board decisions, the Court of Queen's Bench does have the power to review those decisions and set them aside if, in specific circumstances, they exceed Board powers under the *Code* or involve an interpretation of the law that is obviously unreasonable. The *Code* allows a short (30-day) period after the decision is issued for any court challenge to be launched ([Section 19](#)).

The Board can also, though in limited circumstances, reconsider any of its own decisions. The Board's [Information Bulletin #6](#) and [Policy and Procedure Manual](#) provide a detailed explanation about reconsideration and associated processes.

## Trade Union Records

The Board maintains a registry of trade union constitutions, lists of union officers and persons authorized to sign and conclude collective agreements. To keep these records up to date, trade unions are asked to file any changes to its administration as soon as possible ([Section 24](#)).

A trade union cannot make an application for certification until 60 days after it files its constitutional documents with the Board ([Section 37\(1\)](#)).

## What the Labour Relations Board Does Not Do

### ***Does the Board deal with unpaid wages or employment standards?***

No. Neither the Labour Relations Code nor the Labour Relations Board deals with employment standards legislation or unpaid wage claims. Instead, the Employment Standards Code, administered by the [Employment Standards Branch of Alberta](#) deals with these and similar issues.

Employment Standards regulates hours of work, the payment of wages, vacation and general holiday pay, the termination of employment, parental benefits and the employment of young persons. The provisions of the Employment Standards Code apply to all employees, whether covered by a collective agreement or not. Inquiries about any of these areas and about collecting unpaid wages should be directed to the Employment Standards Branch.

The Board also does not handle general concerns or issues regarding [Human Rights](#), [Workers' Compensation](#), [Records of Employment](#), matters concerning federal jurisdiction such as telecommunications, interprovincial transport, airlines, banks, federal government employees, farm, ranch or domestic workers, adolescents or young people.

### ***Is going to the Board the same as going to arbitration?***

No. The Labour Relations Board's role is to interpret and apply the legislation to process the matters covered by the statute. A grievance arbitrator can decide what a collective agreement means or whether it has been applied properly in particular circumstances. In interest arbitration, arbitrators decide what the terms of a new collective agreement should be. While the Labour Relations Board is a permanent board, each arbitration board is set up just to hear a specific case.

***Does the Board appoint mediators?***

No. The Director of [Mediation Services](#), a branch of [Alberta Labour](#), is responsible for mediator appointments. The Board is not normally involved in collective bargaining unless there are complaints of unfair labour practices.

Although the Board does not appoint mediators, the *Code* gives officers and members of the Board a role in helping the parties resolve disputes about matters brought before it ([Section 11](#) and [Section 16](#)).

Trade  
Union  
Bargaining  
Rights

<u>Trade Unions</u>	28
<u>Certification</u>	29
<u>Voluntary Recognition</u>	33
<u>Modification of Bargaining Rights</u>	34
<u>Common Employer Declarations ("Spin-offs")</u>	34
<u>Union Successorships</u>	35
<u>Revocation of Bargaining Rights</u>	35

# Trade Union Bargaining Rights

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This section of the Guide describes how a trade union gets the right to bargain with an employer on behalf of a group of employees. A trade union is an organization of employees formed with the objective of representing groups of employees in collective bargaining over employment terms and conditions. For practical and legal reasons, a trade union needs the support of the employees it seeks to represent.

While an employer can voluntarily bargain with a trade union for a group of employees (called a bargaining unit), the employer may be unwilling to do so. The Labour Relations Code (“the Code”) allows a trade union that believes it has the employees’ support to apply to the Labour Relations Board (“the Board”) for bargaining rights. This is called an [application for certification](#). The union’s support is decided on a majority rule basis in a secret ballot vote conducted by the Board.

Once certified, a trade union can require the employer to negotiate in good faith for the purpose of reaching a collective agreement.

Bargaining rights, once granted, can vary with time. The circumstances of employment may change as the employer’s business grows or changes, is sold or is disposed of in some other way. The Code allows the modification of bargaining rights to fit these changes. It also protects the employees from efforts by an employer to avoid collective bargaining responsibilities.

Employees who have selected a trade union are free to change their minds. The Code allows periodic opportunities for employees to cancel a trade union’s bargaining rights or to select a different trade union to represent them.

## Trade Unions

Organizations that enter into collective bargaining on behalf of groups of employees are known as trade unions. Trade unions represent a specific group of employees in negotiations with the employer and otherwise act on the employees’ behalf. A trade union may be a local, a provincial, national or international body. A trade union may also be an independent organization that represents the employees of only one plant or business.

To form a trade union, a number of employees agreeing to work as a group draft a constitution and bylaws, sign up members and elect officers. More commonly, employees wishing to be unionized will apply to join an existing trade union. Before a trade union can apply to be certified, it [must file its constitutional documents](#) with the Labour Relations Board. This information must be updated whenever changes occur. It is possible for two or

more trade unions to make a joint application for certification ([Section 36](#)). The Board's [Information Bulletin #7](#) and its [Policy and Procedure Manual](#) provide a detailed explanation of trade unions, their filings and associated processes.

## Certification

A trade union may apply to the Board to be certified for a unit of employees it believes is appropriate for collective bargaining. The [certification application](#) is made by completing and filing a form supplied by the Board, along with proof that the union has the support of at least 40% of the employees in the bargaining unit it is applying to represent ([Sections 32, Section 33](#)). The Board's [Information Bulletin #8](#) and [Policy and Procedure Manual](#) provide a detailed explanation of this process.

The *Code* requires the Board to investigate five aspects of the application before granting a certificate. These are:

- Trade union status;
- The timeliness of the application;
- The appropriateness of the bargaining unit;
- Initial 40% support followed by majority support in a secret ballot vote; and
- Bars to certification based on picketing or management influence.

The *Code* requires that the Board conduct its investigation as quickly as possible ([Section 34\(3\)](#)). The Board normally orders a representation vote when it is satisfied the union has the necessary 40% support. The vote is ordered based on the Board Officer's investigation of the application. If there are objections concerning the 40% support, the Board orders the vote and that the ballots be sealed, pending a hearing.

### ***When is a certification application timely?***

The *Code* places several restrictions on when a [certification application](#) can be made.

The union must have had its constitution or bylaws on file with the Board for at least 60 days ([Section 37](#)). This period may be reduced by the Board but this must be done before the certification application is filed.

Several limitations serve to protect bargaining rights held by other trade unions. This protection for an incumbent trade union is limited. A certification application can still be made if it is filed during what are referred to as "window periods." Such window periods include:

- When 10 months have passed after certification, if a collective agreement has not been reached;

- When 10 months have passed after the courts have upheld a disputed certification, if a collective agreement has not been reached;
- Within two months of the end of the term of a collective agreement of two years or less; or
- When an agreement is for a term of more than two years and it is within the 11th or 12th month of the second or any subsequent year of the term, or within the two months before the end of the term ([Section 37\(2\)](#)).

Some other timeliness restrictions apply. Specifically:

- If the union previously lost or withdrew a certification application for the unit, it must wait 90 days from the time of the previous application or get the Board's consent before reapplying;
- If the union has been decertified for that unit, it must wait six months before reapplying; or
- During a strike or lockout, a trade union needs permission from the Labour Relations Board to apply for certification.

***What is an appropriate bargaining unit?***

The Board can only certify a group of employees (a bargaining unit) if the employees fit together in a [group that is suitable for collective bargaining](#). In considering this, the Board must decide whether the affected employees are likely to share the same concerns, the kind of work the employees do, their interests, training and skills, geographical location and other similar factors. It will also look at the makeup of the employer's business and consider if the bargaining unit is a viable one in that environment. In some cases, a unit made up of all employees in a certain workplace is appropriate; in others, only part of an employer's workforce may be appropriate as a bargaining unit.

When a trade union makes an application it must specify the bargaining unit it wants to represent. The Board will test the initial 40% support based on this unit. If the Board finds this unit to be inappropriate for collective bargaining, it may vary the unit to one that is appropriate. This change can be made only if there is an appropriate unit reasonably similar to the one applied for. The representation vote involves the employees in the unit the Board finds appropriate.

The Board's [Information Bulletin #9](#) and the [Policy and Procedure Manual](#) provide a detailed explanation and Board policy concerning bargaining units.

***How does a union prove it has the 40% support necessary to start an application?***

A union must demonstrate that, when the [certification application](#) is received by the Board, 40% of the employees in the bargaining unit applied for are, or have applied to be, members in the union, or have signed a petition to show their support. Those who later

change their minds, for or against the union, and those hired after that date, do not affect this initial count.

If the union is relying on applications for membership or a petition, this support must not be gathered more than 90 days before the certification application is filed with the Board. Applicants for membership must each have paid at least \$2 on their own behalf to the union with their application and the union must provide the Board with proof of this payment.

A union may prove its employee support by a combination of membership in good standing and applications for membership. It can also provide its support in a petition format. However, petition evidence and membership evidence cannot be mixed. When a union submits its evidence, the Board requires a union official to certify its authenticity.

***Will the employer receive information about individual employees?***

No. The privacy of employees supporting a certification application is protected. The Board is not required to divulge this confidential information about a person's union affiliation ([Section 14\(6\)](#)).

***How is an application for certification investigated?***

When the Board receives an [application for certification](#), it notifies the employer as soon as possible orally or in writing, and as soon as possible after receipt. The employer is required to post a notice at the workplace telling the employees that an application for certification has been made. The notice also informs anyone who objects to the application that they may contact the Board. A Board Officer is assigned to investigate the application.

From the date a certification application is received by the Board, the employer may not alter the terms and conditions of employment unless the change is in accordance with established practice or unless the trade union gives its consent. This restriction continues until 30 days after the date the certificate is granted or refused ([Section 147](#)).

As quickly as possible, the Board Officer gathers information about the application and prepares a report. Specifically, the Officer investigates both trade union and employer records to determine whether four key conditions of certification are met. Those conditions include:

- Is the applicant a trade union?
- Is the unit of employees for which the trade union is applying or a reasonably similar unit appropriate for collective bargaining?
- Is the application timely?
- Does the union's evidence demonstrate 40% support for the trade union among the employees in the unit applied for?



When the investigation report is complete, copies are sent to the employer, the applicant trade union and to other affected parties. Any affected party may object to the report or the application for certification. The Board Officer works with the parties to try to resolve any outstanding objections. If objections are not resolved, the matter goes before a Board panel that decides on the objections and whether or not to conduct a representation vote.

If the application meets the *Code's* requirements, the Board will conduct a representation vote to determine if a majority of employees in the bargaining unit are in favor of certification. A Notice of Vote will be posted, setting out those employees eligible to vote. Anyone who feels entitled to vote may approach the returning officer while the polls are open. The officer will decide if, based on the Board's [Voting Rules](#), that person is eligible or not (subject to final determination by the Board). A scrutineer from each of the parties may be present during the vote and the ballot count. The vote is by secret ballot and the majority of those employees who actually vote determine the outcome of the vote.

When certified, a trade union can require the employer to meet and bargain in good faith for a collective agreement ([Section 59](#)). The certified union becomes the only body with lawful authority to bargain for the employees in the specified bargaining unit. No other union may seek to bargain for those employees, and the employer may not negotiate with any other union once a union is certified ([Sections 40\(1\), 149\(e\), 151\(a\)\(b\)](#)).

***Can an employer object to a certification application?***

Yes, employers are entitled to object to [applications for certification](#). The Board will notify the employer as soon as the application is received. The employer and the union are provided the investigation report and are given the opportunity to object to it. The employer's objections must be in writing and must be given to the Board and other parties at least one full business day before the hearing date. The employer should clearly state its reasons for objecting. Though an employer is entitled to raise objections, it cannot interfere with the employees' freedom to select a union.

***Can an employee object to a certification application?***

Yes. Employees can object individually or as a group by appointing a spokesperson to appear on their behalf. They should contact the Board Officer and be prepared to appear at the Board hearing. The Board does not give significant weight to employee opposition, generated by an employer. Employees opposing a certification application can vote to reject the union when the representation vote is held.

***What options do employees have in a representation vote?***

If no trade union represents the bargaining unit, the employees may decide whether they do or do not wish the applicant trade union to represent them.

When the certification vote involves a trade union that is seeking to represent a group of employees already represented by a different trade union, the vote will determine if the employees choose the new union. If the new union is certified, the former trade union ceases to be the bargaining agent for that unit. If the new union is not chosen, the former union remains as the bargaining agent.

### ***Can there be electioneering?***

Votes are usually held at the workplace. There is usually no restriction on off-site electioneering, in the form of meetings at other locations or mailings to employees' residences, for example. However, the Board does not allow electioneering (campaigning or distribution of literature) at the voting place while the vote takes place. Special restrictions are stated on the Board's Notice of Vote. If electioneering is threatening, intimidating or involves promises or undue influence, it may amount to a prohibited practice.

### ***Who conducts the vote?***

The Board appoints a returning officer to conduct the vote. Affected parties are each entitled to have one scrutineer at each polling station. The returning officer makes sure that anyone casting a vote is entitled to do so, based on the Board's [Voting Rules](#). Normally, at the conclusion of the vote, the returning officer will count the ballots in the presence of the scrutineers. Disputes about whether or not an individual can vote can usually be decided on the spot by the returning officer. If the dispute cannot be resolved, the ballot is sealed separately and the ballot box is sealed at the conclusion of the vote. A Board hearing may then be scheduled to deal with the matter.

Any dispute concerning the conduct of the vote will be resolved by the Board.

See the Board's [Information Bulletin #8](#), [Rules of Procedure](#) and [Voting Rules](#) for more detailed information concerning certification, the Board's process and Rules.

## **Voluntary Recognition**

A trade union seeking to represent a group of employees has the right to apply for certification but such an application is not compulsory. The trade union may directly ask the employer to voluntarily recognize the union by agreeing to bargain. The employer and the trade union can then negotiate a collective agreement that will define the group of employees it will cover. [Voluntary recognition](#) of this type is most common in the construction industry.

A bargaining relationship based on voluntary recognition can be terminated by the employer giving six months notice before the expiry of the collective agreement. This requirement allows the matter of union representation to be resolved before the bargaining cycle is due to begin. The union is allowed to respond to the notice of termination by applying for

certification. The *Code* contains a similar provision that allows a union to confirm its bargaining rights for groups of employees who have been voluntarily added to an existing but smaller bargaining unit ([Section 44](#)).

## **Modification of Bargaining Rights**

The *Code* recognizes that changes may occur in the structure of companies and of trade unions and that bargaining rights and obligations sometimes have to be modified to reflect these changes. The Board has a general power to [reconsider and vary its certificates](#) ([Section 12\(4\)](#)). The Board's [Information Bulletin #6](#) and its [Policy and Procedure Manual](#) address the matter of reconsideration in greater detail. The *Code* also contains specific sections dealing with some of the more common changes.

These applications are referred to as reconsideration applications.

### ***What happens if a business is sold or disposed of?***

If a business is [sold, leased or transferred](#) to another employer, the trade union's bargaining rights do not automatically cease; they may continue to bind the successor employer. On application by an employer or trade union affected, the Board can investigate and determine whether an existing certification or collective agreement remains in effect and is binding on the new employer ([Section 46](#)).

Where a business is sold or merged with a business that already has a collective bargaining relationship with a trade union, any person or union affected can apply to the Board to determine:

- The unit of employees appropriate for collective bargaining;
- Which trade union, if any, should represent them;
- Which collective agreement, if any, should remain in effect; or
- Which certificate or amended certificate continues to apply ([Section 46\(2\)](#)).

### ***What happens if a governing body changes its structure?***

The *Code* allows the Board to decide whether the new governing body of a municipality, school district, regional health authority or similar institution acquires the bargaining obligations of its predecessor. This allows the Board to resolve any questions about whether any certificates or collective agreements will continue or are modified to suit the new circumstances ([Section 48](#)).

## **Common Employer Declarations (“Spin-offs”)**

The Board may declare two or more business entities to be a [common employer](#) for the purposes of the *Code*. This can occur when, in the Board's opinion, related activities

proceed under common control or direction through more than one business entity ([Sections 47, 192](#)).

These provisions are aimed, in part, at maintaining existing bargaining rights. Corporations may reorganize their affairs for tax, management or similar reasons without disrupting the labour relations of the business. The Board is allowed to intervene if an employer attempts to divert business through a related company to avoid collective bargaining obligations or agreements.

The Board does not use the section as an indirect method of certifying employees or to create units that are inappropriate for collective bargaining.

## **Union Successorships**

If a trade union merges with another trade union, the [successor union](#) may acquire the bargaining rights, privileges and duties of the previous union. Any person or union can apply to the Board for a declaration confirming this. Before this declaration is made, the Board will investigate the circumstances of the transaction to make sure the new trade union is indeed the true successor to the old one. When the Board is satisfied that the new union has properly taken over from the old union, it declares that the collective agreement and certification apply to the new trade union ([Section 49](#)). If a trade union simply changes its name, the Board will usually just reconsider the certificate and make the change using its authority ([Section 12\(4\)](#)).

## **Revocation of Bargaining Rights**

If employees are dissatisfied with the trade union that represents them, whether the union's bargaining rights arise from certification or voluntary recognition, they can apply to have that union's bargaining rights revoked. They may then bargain individually with the employer or select a different union.

A [revocation application](#) must be the employees' choice, freely made without any interference from the employer. The Board's [Information Bulletin #13](#) and the [Policy and Procedure Manual](#) specifically address the process of revocation.

The employees submit a petition to the Board expressing their wishes and giving the name of the employer and of the trade union, and the names and signatures of those employees who want to have the union's bargaining rights revoked. The Board keeps the identity of the petitioning employees confidential.

A Board Officer will investigate and report to the Board whether the petition appears to be voluntary. Before a vote can be held, the Board must also be satisfied that 40% of employees in the bargaining unit support the application to make the change.

A [revocation application](#), like certification, can only be made during those periods when the union's bargaining rights are not protected ([window periods](#) as described in the previous section on certification). The Board's consent is needed to make an application during a strike or lockout ([Section 52\(1\)](#)). If the employee petition is in order, the Board will conduct a representation vote. A majority of those voting must vote for the change before the Board will revoke the bargaining rights of the trade union ([Section 58\(1\)](#)).

If the Board grants revocation, any collective agreement that was previously in force is no longer binding on any of the parties. The employer and the individual employees are then left to negotiate or amend terms of employment with each other directly. The union affected by the revocation cannot apply for recertification or enter into a collective agreement for that bargaining unit for six months from the date of revocation ([Section 54\(2\)](#)).

***How can employees change trade unions?***

The employees may join another trade union, which can then apply for certification. It is not necessary to have the bargaining rights of the first union revoked; if and when the second union is certified, the first union automatically loses its right to represent the employees. The new union may apply for certification only when the previous union's bargaining rights are unprotected (that is, during the window periods as described in the section on certification). If a collective agreement was in force at the time of the change, the newly certified trade union becomes a party to it, but may terminate that agreement by giving two months written notice ([Section 40\(3\)](#)).

***Can an employer apply to revoke a trade union's certification?***

Yes, but only when there is no collective agreement and there has been no collective bargaining with the union for three years after certification, or if there has been no collective bargaining for three years after the collective agreement has expired ([Section 52\(5\)](#)).

# Collective Bargaining

<a href="#"><u>Notice to Bargain and Negotiations</u></a>	38
<a href="#"><u>Employers' Organizations</u></a>	40
<a href="#"><u>Mediation</u></a>	40
<a href="#"><u>Strike and Lockout Votes and Notices</u></a>	41
<a href="#"><u>Strikes and Lockouts</u></a>	42
<a href="#"><u>Picketing</u></a>	44
<a href="#"><u>Other Methods of Resolving Disputes</u></a>	45
<a href="#"><u>The New Collective Agreement</u></a>	45
<a href="#"><u>Essential Service Disputes</u></a>	46



# Collective Bargaining

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The objective of collective bargaining is a collective agreement between the union and the employer. This agreement is in effect for a fixed period or “term” and specifies the wages and benefits for the employees it covers. The fixed-term collective agreement provides a period of labour peace. [Strikes and lockouts](#) are allowed only when a collective agreement has expired and then only after the collective bargaining process has taken place.

There is a cycle to collective bargaining. Once bargaining has begun with a notice to bargain, several things must happen before a strike or lockout can take place. The parties must meet, exchange proposals, and discuss their mutual concerns in detail. If they cannot reach a settlement on their own, they must try a period of bargaining with the help of a mediator. Once a mediator has assessed the situation and decided whether to issue a report, the parties to the bargaining must wait a 14-day “cooling-off period” before taking strike or lockout action.

Before strike or lockout action begins, there must be a Labour Relations Board-supervised [strike or lockout vote](#). A 72-hour notice is required before a legal strike or lockout can begin. This allows each side to make its final preparations though more importantly, the 72-hour notice allows last-minute negotiations to take place that may resolve the dispute without industrial conflict.

The *Labour Relations Code* (“the *Code*”) creates a special system to resolve disputes of hospital and firefighting employees. The *Public Service Employee Relations Act* (“the *PSERA*”) creates a similar system for the employees it covers. Strikes and lockouts are prohibited and compulsory arbitration is used to settle disputes if collective bargaining fails. There are similar rules for police, and special powers in the event of a public emergency.

The steps in the collective bargaining cycle are outlined in the pages that follow.

## Notice to Bargain and Negotiations

Collective bargaining usually starts when one party serves the other party with written notice to bargain. If the union is newly certified and no agreement is in effect, the notice to bargain may be served at any time. If a collective agreement is in force, the notice to bargain must be served between 60 and 120 days before the existing collective agreement expires, unless the collective agreement specifies a longer period ([Section 59\(2\)](#)).



The notice must include a list of the names and addresses of the bargaining committee of the side issuing the notice. The other party must respond with a list of the names and addresses of its bargaining committee. Each committee must include at least one person from the trade union local(s) or the employer(s) being represented ([Section 61](#)).

The union and the employer must meet and begin to bargain in good faith within 30 days after the notice is given. The objectives of bargaining include the creation of an initial collective agreement, update an existing collective agreement or to reach a new agreement all together. The parties must exchange bargaining proposals within 15 days of this first meeting unless they agree on a longer period. Either party can require the other to tell them what ratification procedures are necessary for a collective agreement ([Sections 61\(6\), \(7\)](#)).

When bargaining has begun, the *Code* automatically extends the terms of a contract that would otherwise expire (bridging). This means that the terms and conditions of a bridged agreement apply while bargaining continues. Bridging continues until a legal strike or lockout takes place, the bargaining rights are terminated or a new collective agreement is entered into.

While the *Code* extends a collective agreement during collective bargaining, that agreement terminates as soon as a lawful strike or lockout takes place. Except for rights and benefits that are partly protected by the *Code* (pensions and insurance benefits, for example, have a limited protection), the terms and conditions of the collective agreement no longer apply once a strike or lockout begins ([Section 130](#)).

***What can be done if one side refuses to meet or negotiate in good faith?***

The *Code* requires the parties to meet with each other and to bargain in good faith. They must make every reasonable effort to enter into a collective agreement. If one party feels the other is failing to meet or failing to bargain in good faith, that party may file a complaint with the Board. If the complaint cannot be settled, the Board may hold a hearing, make a finding and, if necessary, issue directives or impose conditions to ensure that good faith bargaining resumes ([Section 17\(1\)](#)).

The Labour Relations Board's authority concerning good faith bargaining only ensures the bargaining process is carried out properly. It is up to the parties to settle the terms of the collective agreement through collective bargaining. The [Labour Relations Board's](#) role is limited to ensuring the parties do this in a sincere and fair manner.

## Employers' Organizations

Employers often wish to join together to bargain collectively with a trade union. Sometimes, employers will voluntarily authorize a consultant or an employers' organization to bargain with a trade union as the employer's agent. The *Code* allows this procedure, in which an agent bargains a collective agreement on behalf of several employers at once. An employer may withdraw from this informal process at any time to bargain on its own behalf.

The *Code* provides a more formal procedure for group employer bargaining. An employers' organization may be authorized in writing by a number of employers to bargain on a group basis on their behalf. Once employers commit themselves to group bargaining in this formal fashion, the employers' organization continues to represent them until the dispute is settled or a strike or lockout occurs. If a strike or lockout happens, an employer is free to withdraw from the group if it wishes. The *Code* requires that an employers' organization must give the union a list of all employers bargaining group within 10 days of serving notice to begin collective bargaining ([Section 62](#)). No additional employers can be added to the list later without the union's consent.

The Labour Relations Board's [Information Bulletin #12](#) and [Policy and Procedure Manual](#) provide a detailed explanation of registration in the construction industry.

## Mediation

At any time during collective bargaining, the parties may make an application to have a mediator help settle a dispute ([Section 64](#), [65](#)).

In the public sector, the Labour Relations Board ("the Board") will appoint a mediator at the request of either or both parties to the dispute, or at the direction of the Minister of Labour. In the private sector, the Director of [Mediation Services](#) will make the appointment. The mediator's function is to hear both sides of a dispute and to encourage and assist the parties in reaching a settlement ([Section 65](#)).

An initial 14-day mediation period is provided for in the *Code* and no strike or lockout is permitted until a further 14-day cooling-off period has passed. Once formal mediation begins, the mediator will meet with the parties and try to encourage a settlement. The mediator has the choice of telling the parties that a report containing recommendations will not be issued or of issuing a report recommending terms of settlement that the parties may then accept or reject.

The recommendation binds the parties if both accept it. If either the union or the employer accepts the mediator's recommendations, it can apply to have the Board conduct a vote of the side that rejected the offer. Individual employees, or in the case of an employers' organization, the individual employers, vote by secret ballot.

A recommendation accepted during this vote forms the new collective agreement. If the vote fails, the union and the employer must decide on their next step. They can continue negotiations, consider [strike or lockout action](#), or, if agreed, submit the dispute to voluntary interest arbitration. There must be a 14-day cooling-off period after a vote on a mediator's report before a strike or lockout vote can be conducted ([Section 65](#)).

## **Strike and Lockout Votes and Notices**

Following the mediation process and cooling-off period, if no new collective agreement has been reached, the parties have the option of taking strike or lockout action. Strike or lockout action may apply pressure on the opposing party to reach a settlement. In order to call a strike, a trade union must apply to the Labour Relations Board to have the Board supervise a [strike vote](#). Similarly, an employer or employers' organization wishing to lock out its employees must apply to the Board for a supervised [lockout vote](#) or for an employer poll, in the case of a single employer.

The object of a strike vote is to determine, in a democratic manner, whether a majority of the employees is prepared to strike. The object of a lockout vote is to determine whether an employer, or a majority of the employers represented by the employers' organization, is prepared to lock out its employees. The Board's [Information Bulletin #16, Voting Rules](#) and the [Policy and Procedure Manual](#) provide greater detail about strikes, lockouts and Board-supervised votes.

The Labour Relations Code provides that a strike or lockout vote remains valid only for 120 days ([Section 77](#)). This ensures that strikes and lockouts do not take place too long after the employers or employees affected have had a chance to express their views. When an application to supervise a strike or lockout vote is received, the Board appoints a supervising officer who reviews the applicants' proposed voting procedures, may attend during the vote and be present at the counting of the ballots. The Board's role is supervisory. The vote is actually conducted by the party requesting the vote.

The final step before a strike or lockout can take place is giving notice of the time, date and initial location of the intended action. To be effective, the notice must be properly served on

the other party at least 72 hours in advance of the proposed strike or lockout action ([Section 78](#)). The notice must also be served on the mediator in the dispute.

The purpose of the notice is to give the other side advance warning of the strike or lockout action. It also gives an opportunity to try to find a settlement before strike or lockout action begins.

***What happens if, after notice is given, a strike or lockout does not occur?***

If a strike or lockout does not begin on the date set out on the notice, a new 72-hour notice must be given to the other party involved. A copy must also be given to the mediator. The new notice must state the new time and place of the proposed strike or lockout ([Section 80](#)). However, if both sides agree in writing to do so, they may amend the time, date or place set out in a notice that has been served, eliminating the need for a new notice. This often happens while last-minute bargaining is attempted.

## **Strikes and Lockouts**

The *Code* sets out the times when a lawful strike and lockout can take place. All other strikes and lockouts are illegal. Many of the provisions that protect employees and employers during a lawful strike or lockout do not apply if the strike or lockout is illegal. The *Code* gives the Board the authority to order that illegal strikes and lockouts cease and to exercise those powers very quickly ([Section 86, 88](#)). The *Code* also allows the courts to impose heavy penalties for participation in illegal strikes and lockouts.

***When can a legal strike occur?***

[A strike can legally take place only if these requirements are met:](#)

- No collective agreement, or only a bridged agreement, is in force;
- A majority of employees has voted in favour of a strike in a vote supervised by the Labour Relations Board;
- A declaration of the result of the strike vote has been filed with the Board ([Sections 73\(b\)](#));
- No more than 120 days have passed since the strike vote was taken; and
- The trade union has served strike notice on the employer or the employers' organization, giving at least 72 hours notice of the date, time and initial location where the strike will begin and as also notified the mediator ([Section 78](#)).

***When can a legal lockout occur?***

[A legal lockout can take place only if these requirements are met:](#)

- No collective agreement, or only a bridged agreement, is in force;
- When an employers' organization is representing a number of employers, a majority of the employers has voted in favour of a lockout in a vote supervised by the Board;
- When the dispute involves a single employer, a poll of the employer is in favour of a lockout;
- The employer has filed the results of any lockout vote with the Board;
- No more than 120 days have passed since the lockout vote or poll was taken;
- The union or its representative has been personally served with 72 hours written notice of the date, time and initial location where the lockout will begin; and
- The mediator has been notified ([Sections 74, 78](#)).

***Is a striking or locked-out employee still considered an employee?***

Yes. Although an employee on strike or locked out is not working and not entitled to earnings from the employer, he or she is still considered an employee ([Section 1\(1\)](#)) and cannot be terminated simply because of being on strike or locked out ([Section 89](#)).

The Labour Relations Code protects employees on lawful strike or lockout ([Section 90](#)). When the strike or lockout ends they are entitled to ask to resume their employment. They are entitled to reinstatement before any other employee hired as a replacement during the dispute. An employee must ask for this reinstatement as soon as the strike or lockout is over. The *Code* provides that a dispute ends with a settlement, or the termination of bargaining rights, or as soon as two years have passed since the strike or lockout began.

The reinstatement provision does not mean that all employees will be automatically recalled as soon as a strike or lockout is over. For example, markets may be lost, causing production to be reduced.

There is particular protection in the *Code* for pension rights and benefits ([Section 155](#)). There is also protection for medical, dental, disability, life and other insurance schemes. However, it is up to the trade union representing employees to take steps to ensure payment of the full premiums of the insurance schemes it seeks to protect.

***When is a strike or lockout prohibited?***

In general, a strike or lockout is illegal if it occurs before the steps set out above have been taken, or if it occurs when a collective agreement is in force.

A strike or lockout is also illegal if it involves public-sector employees, firefighters, police, or public servants. These employees are covered by special legislation which prohibits strikes or lockouts. If the Cabinet declares a particular dispute to be a public emergency, it becomes unlawful to continue or begin any strike or lockout covered by the order.

The Code also gives the Board the power to restrict activities likely to cause or continue an unlawful strike. Threatening an unlawful strike or doing something likely to lead others to engage in an unlawful strike can lead to a Board order directed to the trade union, its officers and members as well as the employees or persons involved. Similar provisions exist to restrict activities likely to cause an unlawful lockout ([Section 87](#)).

***What are the consequences of an unlawful strike or lockout?***

Any party alleging an unlawful strike or lockout can ask the Board to hold a hearing on as little as four hours notice. If the strike or lockout is unlawful, the Board will order that it be stopped and may also make other remedial orders ([Section 17](#)). Such an order, once given, applies to the strike or lockout referred to in the Board's order and any future strike or lockout that occurs for the same reason.

An order may be filed by the Board with the Clerk of the Court and is then enforceable as a judgment of the court ([Section 88\(2\)](#)). It is contempt of court to knowingly violate a court order. With the consent of the [Minister of Labour](#), a party can also be prosecuted directly for violating an order of the Board ([Section 162](#)).

## **Picketing**

The Code allows [picketing](#) to occur during a lawful strike or lockout. The picketing is restricted to the employees' place of employment. Alberta does not allow "secondary picketing" which is picketing somewhere other than the place of employment (Sections [84\(4\)](#), [85](#)). This restriction does not apply to the picketing of an "ally" or "alter ego" employer in a labour dispute.

Picketing must be peaceful and carried out without trespassing or other unlawful acts. Violent or unlawful acts can involve legal consequences and may affect the employees' continued employment.

The Board is primarily responsible for regulating picketing activities during a strike or lockout. Picketing that has become unlawful may be prohibited by a Board order. When an application is made to the Board to regulate lawful picketing, the Board considers and balances the right to peaceful free expression of opinion, the directness of the interests of

persons participating, any likelihood of violence and any undesirable escalation of the conflict or dispute ([Section 84\(3\)](#)).

## Other Methods of Resolving Disputes

The Code sets up a number of ways to resolve disputes without going to strike or lockout. These include proposal votes, voluntary arbitration and setting up a disputes inquiry board. At any time after the first exchange of bargaining proposals (but only once during the course of the dispute), the employer may have the Board take a proposal to the employees affected by the dispute for a secret ballot vote to determine if the proposal is acceptable. If the employees vote to accept the offer, it becomes the basis of a new collective agreement ([Section 69](#)). Similarly, a trade union may ask once during the course of the dispute to have the employer or members of an employers' organization polled by the Board, and if the union's offer is accepted, it becomes the basis of a new collective agreement.

If both parties agree, a dispute can be submitted to voluntary binding arbitration. Agreement in writing is required. One side cannot submit a dispute to arbitration without the consent of the other side. The Minister of Labour can be asked to make the necessary appointments if the parties cannot agree on who should hear the dispute. There can be a one or three-person arbitration board. The arbitration board will hold a hearing into the dispute, listen to submissions then decide on terms and conditions for a collective agreement that will bind both parties ([Sections 93, 95](#)).

The [Minister of Labour](#) has the option to appoint one or more persons as a disputes inquiry board to attempt to settle a dispute before or after a strike or lockout begins.

## The New Collective Agreement

Once parties reach a collective agreement, it becomes binding on all the parties affected, whether they are employers, trade unions or employees. Usually the agreement is the result of direct negotiations. However, an agreement reached through arbitration, an accepted proposal, mediation or a disputes inquiry board vote, is equally binding.

Every collective agreement should have a fixed expiry date. This is important because it influences when applications can be made for termination of bargaining rights or for certification of another union. It also determines when notice to bargain can be given. If an agreement is signed without a fixed term, the Code says the agreement is for one year ([Section 129](#)).

Collective agreements may have an automatic renewal clause. Parties will sometimes agree that if a notice to bargain is not given during the period for giving notice, the contract will be automatically renewed, usually for an additional year. Such clauses are not required by the *Code*. Such automatic renewal provisions are different from bridging clauses. A bridging clause only extends the terms of the collective agreement during the bargaining period until a strike or lockout occurs.

## Essential Service Disputes

The *Code* has special rules to resolve disputes in certain essential services. These parties must submit unresolved bargaining disputes to a form of binding arbitration that replaces the option to strike or to lockout. These no-strike-or-lockout rules always apply to hospital employees and firefighters. A similar system applies to police under the Police Officers Collective Bargaining Act (“the *POCBA*”), and to public servants under the Public Service Employee Relations Act (“the *PSERA*”).

In addition, these rules apply when the Cabinet declares a dispute to be a public emergency. For this to be done, the dispute must be causing or have the potential to cause an emergency, including a threat to public health or to property (by stopping sewage or water treatment, for example). Once this power is used, a dispute that might otherwise involve a legal strike or lockout changes. Any work stoppage must end, and the issues in dispute be resolved by a form of arbitration called a public emergency tribunal ([Sections 112, 113](#)).

### ***How are disputes settled when the employees are not allowed to strike?***

When a mediator is appointed to a dispute involving employees prohibited from striking ([Section 96\(1\)](#)), the mediator helps the parties attempt to settle the items in dispute. If the parties do not settle within 14 days of the mediator’s appointment, the mediator will forward a list of all items in dispute to the Minister of Labour. The Minister may appoint a compulsory arbitration board or may order the parties to return to collective bargaining ([Sections 98](#)).

A compulsory arbitration board decides the matters that will form a collective agreement which is binding on both the employer and the union. Police arbitrations and public emergency tribunals act in a similar way.

The *Code* requires that a compulsory arbitration board consider certain criteria to help it establish wages and benefits that are fair and reasonable to the employees and the employer and are in the best interests of the public ([Section 101](#)).



***What happens if a strike or lockout takes place in the hospital or firefighting industry or following a public emergency declaration?***

The Code establishes some additional remedies that can be applied in the event of an unlawful strike or lockout in these cases. The Board can impose financial penalties on the offending party when firefighters or hospital workers are involved or when the strike or lockout is creating a public emergency. In the case of a prohibited strike of this type, the Board may stop the union from receiving the dues and fees it normally receives from the employees. It does this by directing the employer to stop these deductions for a period of one to six months. In the case of an illegal lockout of this type, the Board may direct the employer to pay the union dues normally payable by the individual employees, also for a period of one to six months ([Sections 114, 115](#)).

As a further option, the Code gives the Lieutenant Governor in Council (the Cabinet) the power to revoke a trade union's certification or prohibit an employers' organization from continuing to represent employers. This power applies only to public emergencies, and hospital and firefighter disputes and only if the union or employers' organization has caused or participated in the prohibited strike or lockout.

The  
Collective  
Agreement  
in  
Operation

Union Security 49

Grievance Arbitration 50

The Union's Duty of Fair Representation 51



# The Collective Agreement in Operation

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A collective agreement is a written agreement between a trade union and an employer. It is a contract setting out the terms and conditions of employment for each employee covered by the agreement. It is binding on all employees covered, whether or not they are members of the union.

The parties can put into a collective agreement any language that they agree on, specifying the terms and conditions of employment. For example, that language otherwise known as provisions, may deal with wages, vacations, hours of work, seniority and promotions, lay-offs and recall or benefit plans. An important provision contained in most collective agreements relates to the employee's relationship to the union, usually called a union security clause.

All collective agreements need a grievance and arbitration provision that allows disputes about the meaning and operation of the agreement to be settled without a work stoppage. A union is not required to arbitrate all grievances; many are settled through discussion. However, a union has a [duty to represent](#) employees fairly in matters arising out of the collective agreement.

## Union Security

The trade union and the employer often agree to include one of several approaches to union membership in the collective agreement. These provisions, if agreed upon, determine the extent of the employees' obligation to belong to or pay dues to the trade union.

There are five common types of union security arrangements.

### ***The union shop***

All current and future employees must join the trade union within a specified time after they are hired, and must remain as members in good standing as a condition of continued employment. Dues must be paid to the union.

### ***The closed shop***

A person must be a member of the union before being hired by the employer, and must remain a member in good standing as a condition of employment. Dues must be paid to the union.

### ***The agency shop— the “Rand formula”***

This clause does not require employees to join the trade union but non-members must pay the union an amount equal to the dues paid by members. The agency shop arrangement is commonly called the Rand formula.

### ***Maintenance of membership***

New employees need not join the union, but those who are already members must maintain their membership and pay dues as a condition of continued employment.

### ***Dues checkoff***

The Labour Relations Code (“the Code”) provides for the compulsory deduction of union dues by the employer upon receipt of written authorization from the employee. This written authorization must be complied with, whether or not the union is certified and whether or not a collective agreement is in force ([Section 27](#)).

If an employee, by reason of religious belief, objects to joining a trade union or to paying dues to the union, the Labour Relations Board (“the Board”) may release the employee from that obligation. In such cases, instead of paying dues or other fees to the union, the employee is required to pay the same amount of money to a registered charitable organization, generally of the employees’ choice ([Section 29\(2\)](#)).

## **Grievance Arbitration**

Collective agreements must have a provision setting out how disputes over the meaning or application of the agreement are resolved. The method is usually a grievance procedure followed by a form of arbitration called “grievance” or “rights” arbitration. This process for resolving disputes is used when issues arise during the course of a collective agreement over the meaning of, or an alleged violation of, the collective agreement.

Arbitrators deal with several types of cases. Sometimes they deal with cases involving just one or a few individuals, such as discharge and discipline cases. At other times they will deal with cases involving many employees, such as a dispute over overtime or benefit payments. Sometimes the arbitrator will simply interpret the collective agreement because the union and the employer disagree on its meaning or whether it applies in a given situation.

Most collective agreements include a grievance procedure consisting of three or four stages, with more senior persons from both union and management attempting to resolve

the problem at each stage. If a solution is not reached, the problem may then go to arbitration.

If an agreement does not contain a grievance and arbitration procedure, the parties are required to follow the model collective agreement arbitration procedure set out in [Section 136](#) of the Code.

***Can an employee sue an employer instead of filing a grievance?***

Disputes in a unionized workplace usually have to be processed through the grievance or arbitration process rather than the courts. An employee who feels wrongfully dismissed must proceed with a grievance rather than a court action for wrongful dismissal. Attempting to take the matter to court is likely to fail and may mean the employee loses an opportunity to file a grievance. There is often a very short period in which to file a grievance.

***How long does grievance arbitration take?***

Unions and employers, through collective bargaining, are free to choose the system of arbitration that best suits their needs. Some systems take longer than others. If speed is important, the parties should try to select arbitrators with time available to render a decision within a reasonable period. If the process is unreasonably delayed, the Labour Relations Board has the power to speed up the process ([Section 140](#)).

***Do the parties have to accept a grievance arbitration decision?***

Yes. The arbitrator or arbitration board's decision is final and binding on all parties involved. If it is not complied with, the decision (called an award) can be filed in the Court of Queen's Bench and enforced as a court order.

An arbitration award cannot be appealed directly, but the court can conduct a limited review and set aside any award made beyond the arbitrator's powers, or that involves unreasonable errors of law. Any such application for review must be filed in court within 30 days of the date the award was issued ([Section 145](#)).

## **The Union's Duty of Fair Representation**

The Code, recognizes that unions have considerable authority and control over the processing of grievances. The Code requires that unions represent employees fairly with respect to their rights under the collective agreement ([Section 153](#)). The Board's [Information Bulletin #18](#) and its [Policy and Procedure Manual](#) explain the duty of fair representation and the Board's associated processes. Essentially, the [duty of fair representation](#) requires unions to exercise its discretion in good faith, after studying a grievance and assessing its merits honestly and objectively. Unions should take into

account the significance of the grievance and its consequences for the employee on the one hand, and its own legitimate interests on the other. Making a mistake in the process, however, does not automatically make a union liable for an employee's loss. Employees must take reasonable steps to protect their interests. Employees should carefully check the collective agreement to see exactly what rights it gives them.

While the union has the discretion to settle or refuse to pursue a grievance, it commits a prohibited practice if it abandons a grievance in a manner that amounts to unfair representation. Unions are protected from financial liability for fair representation claims when it has acted in good faith in respect of the employee. Unions are also protected when the loss was the result of the employee's own conduct ([Section 153\(2\)](#)).

Occasionally an employee's chance to file a grievance is lost by a union's failure to represent the employee. The *Code* gives the Board a limited power to extend collective agreement grievance time limits. This can only be done in cases involving loss of a job or of a substantial amount of work. There must be reasonable grounds for making the extension and steps must be taken so that the employer will not be substantially prejudiced by the extension. This may involve an order that the union compensate the employer for losses suffered as a result of the union's failure.

***Can an employee appeal the union's decision about a grievance?***

An employee dissatisfied with the way a union has dealt with a grievance has three avenues to explore. First, a union's constitution or bylaws may provide an internal appeal procedure. Second, employees should check the collective agreement to see if, and to what extent, they can pursue grievances on their own behalf. Third, employees have the option of filing a complaint with the Board alleging unfair representation by a trade union ([Section 153](#)). There is a 90-day time limit for filing a [duty of fair representation](#) complaint ([Section 16\(2\)](#)). Any complaints filed after this 90-day period must include a detailed explanation concerning the reason for the delay.

The complaint procedure involves a review of the conduct of the union. It is not an appeal of the union's decision or a hearing on the merits of the grievance. The Board will not interfere with a union's decision simply because the affected employee disagrees.

# Unfair Labour Practices

<a href="#"><u>Freeze Periods</u></a>	54
<a href="#"><u>Giving Evidence</u></a>	54
<a href="#"><u>Internal Trade Union Affairs</u></a>	55
<a href="#"><u>Employer Involvement in Trade Union Activities and Employer Free Speech</u></a>	55
<a href="#"><u>Examples of Prohibited Practices</u></a>	56





## Unfair Labour Practices

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The Labour Relations Code (“the *Code*”) guarantees employers, employees and trade unions the right to free collective bargaining and establishes a system to make collective bargaining work. To protect these rights, and keep the system functioning fairly, the *Code* prohibits [certain types of unacceptable conduct](#).

Complaints that the *Code* has been breached can be filed with the Labour Relations Board (“the Board”) by any affected party. The Board refers to such complaints as “unfair labour practice complaints.” Such complaints may involve trade unions, employers, employers’ organizations, employees or persons acting on their behalf. There is a 90-day time limit for filing unfair labour practice complaints. Any complaints filed after the 90-day time limit must include a detailed explanation for the delay in filing ([Section 16\(2\)](#)).

### Freeze Periods

There are certain sensitive times during the certification and bargaining cycle when the *Code* prohibits changes in rates of pay and terms and conditions of employment ([Section 147](#)). These particular times are referred to as [freeze periods](#). Examples include:

- From the day an application for certification is filed until it is refused, or until 30 days after it is granted;
- For a further 60 days, if a notice to bargain is served in respect of a newly certified employer within 30 days of the certification; or
- Once a notice to bargain is served at the end of a collective agreement. Like the “bridging provision” that extends the collective agreement, this freeze prevents changes during the negotiations. It ends once an agreement is reached, the bargaining rights are terminated or a strike or lockout occurs.

The *Code* permits changes to employment terms during these freeze periods but only when the change is based on an established practice, when it is allowed by the collective agreement or when the employer has the union’s consent to make the change.

### Giving Evidence

The *Code* prohibits a party from retaliating or taking discriminatory action against people who have testified at a Board hearing, filed a complaint, made an application under the *Code* or have otherwise taken part in the proceedings provided for in the *Code*. This prohibition applies to employers and trade unions, as well as to people acting on their behalf ([Section 22](#)).

## Internal Trade Union Affairs

The *Code* offers protection for union members when participating in the activities of their trade union. At the same time, the *Code* recognizes that the trade union is an organization free to govern its own affairs. The Board's [Information Bulletin #7](#) and the Board's [Policy and Procedure Manual](#) address trade union affairs and associated Board processes.

While a trade union, acting under its constitution, can take disciplinary action against union members, the *Code* requires certain steps be taken in cases other than non-payment of dues ([Section 26](#)). The *Code* requires service of charges in writing, a reasonable time to prepare a defence, a full and fair hearing including the right to use counsel, and a reasonable time to pay any fine imposed.

The *Code* provides protection from discriminatory discipline and membership practices by trade unions ([Section 152](#)). The Board will not usually deal with any such complaint until the individual has first used the trade union's internal appeal procedures. The Board will deal with the complaint right away if the employee is denied ready access to a reasonable appeal procedure.

The *Code* protects a union member from union discipline for engaging in work in accordance with the collective agreement or for refusing to do something contrary to the *Code*. It also prohibits discipline for working "non-union" unless the union makes alternative unionized work available or the employee's work is affected by a lawful strike ([Section 151\(i\)](#)).

## Employer Involvement in Trade Union Activities and Employer Free Speech

It is an [unfair labor practice](#) for an employer to take part in or interfere with the formation or administration of a trade union or the representation of employees by a trade union ([Section 148](#)). The employer must not contribute financial or other support to a trade union because this undermines the union's independence. However, certain types of co-operation are permitted. When a union is the bargaining agent for the employer's employees, the employer can allow employees to perform union tasks on company time or allow company premises to be used for union business.

These restrictions on employer interference still allow the employer to express opinions, as long as coercion, threats, promises or undue influence are not used ([Section 148\(2\)\(c\)](#)).

## Examples of Prohibited Practices

These actions are examples of prohibited practices by employers:

- Terminating or disciplining an employee for joining or organizing a trade union ([Section 149\(a\)](#));
- Bargaining with one trade union for a unit that is represented by another union ([Section 149\(e\)](#));
- Making it a condition of employment that a person not join a trade union ([Section 149\(b\)](#)); or
- Denying employees their entitlement to pension rights or benefits because of their participation in a strike or lockout ([Section 155](#)).

These actions are examples of prohibited practices by trade unions:

- Bargaining collectively or signing a collective agreement where another union is known to be the bargaining agent ([Section 151\(a\)\(b\)](#));
- Interfering with or participating in the formation of an employers' organization ([Section 151\(c\)](#));
- Attempting to organize on the employer's premises during an employee's working hours without the consent of the employer ([Section 151\(d\)](#));
- Using coercion, intimidation, threats, promises or undue influence to encourage trade union membership ([Section 151\(f\)](#)); or
- Interfering with the performance of work because certain employees are not members of a particular trade union ([Section 151\(e\)](#)).

These are only examples of prohibited practices; any contravention of the Code can result in a complaint.

### ***When an unfair labour practice complaint is made, what happens?***

Usually, the Board appoints an officer to look into the [complaint](#) and try to assist the parties to resolve it between themselves. If the complaint is not resolved, the Board may hold an informal or formal hearing, at which the parties will have an opportunity to present evidence and arguments. The Board's [Information Bulletin #2](#) and its [Policy and Procedure Manual](#) address how complaints, applications and references are addressed by the Board.

If the Board finds the complaint is justified, it may take whatever interim or final action it feels is necessary to rectify the breach of the *Code* complained about, including ordering that ([Section 17](#)):

- The practice be stopped;
- An employee suspended or discharged be reinstated and compensated;
- An employee be reinstated or admitted as a member of a trade union; or
- An unfair disciplinary action or penalty be lifted, and compensation paid.

The  
Public  
Service  
Sector

The Public Service 59

Police 60

Post-secondary Educational Institution 60

# The Public Service Sector

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Collective bargaining in the public sector is governed either partly or entirely by special legislation that reflects the historical development of collective bargaining in the public sector and its special labour relations environment.

## The Public Service

The public service, government agencies and Crown corporations are governed by the Public Service Employee Relations Act (“the *PSERA*”). The *PSERA* applies to the Government of Alberta and its employees. It also applies to other employers, a majority of whose governing body is appointed or appointable by statute, by the Lieutenant-Governor in Council (the Cabinet) or by the responsible minister. A small number of such bodies are exempt from the *PSERA* by a Schedule to the *Act*, and so fall under the Labour Relations Code (“the *Code*”).

The major differences between *PSERA* and the *Code* labour relations regimes are as follows. The *PSERA* limits the Board’s discretion to determine appropriate bargaining units. It establishes a single bargaining unit for provincial government employees ([Section 10](#)). For other *PSERA* employers, an all-employee bargaining unit is preferred but the Board may prescribe smaller bargaining units if they are more appropriate ([Section 11](#), [16](#)).

The *PSERA* directs that employees in certain positions be excluded from the bargaining unit. The list of exclusions includes payroll administrators, employees of the Corporate Human Resources, budget officers, systems analysts, auditors, disbursement control officers, hearing officers who hear matters under the *Provincial Offences Procedures Act*, or the personal staff of a Minister, deputy Minister or assistant deputy Minister ([Section 12](#)).

The *PSERA* prohibits strikes or lockouts and instead establishes compulsory binding arbitration as the method of resolving collective bargaining disputes. It directs that certain management rights may be the subject of collective bargaining, but may not be arbitrated. These rights include organization of work, assignment of duties, appointments, promotions, transfers and pensions ([Section 30\(2\)](#)). It gives the Labour Relations Board (“the Board”) the authority to decide disputes over whether individual bargaining proposals fall into these categories, and to appoint a compulsory arbitration board to settle the remaining terms in dispute.

Two areas that the Board oversees under the *Code* fall outside of its authority under the *PSERA*. Specifically, the *PSERA* imposes no duty of fair representation on a bargaining agent. The trade union's duty of fair representation instead arises under the common law and must be enforced by a court action rather than by a complaint to the Board.

## **Police**

Municipal police forces in Alberta are governed by the Police Officers Collective Bargaining Act ("the *POCBA*"). This legislation adapts the *Code*'s collective bargaining regime to the special features of police service. It creates two bargaining units for police officers, makes only single-municipality police associations eligible to act as bargaining agents, and excludes from collective bargaining such issues as the statutory responsibilities of a chief of police and discipline and discharge, which are instead dealt with by regulations under the *Police Act*. The Police Officers Collective Bargaining Act prohibits strikes, lockouts, and substitutes compulsory binding arbitration. The Board has concurrent jurisdiction with the courts over strikes and lockouts.

## **Post-secondary Educational Institutions**

Universities, public colleges and technical institutes fall under a mixture of general labour relations legislation and special legislation. In all of these institutions, non-academic staff are governed by the Public Service Employee Relations Act. Academic staff, however, are excluded from operation of both the *Code* and the *PSERA*. Instead, they are governed by the labour relations provisions of the *Post-secondary Learning Act*. This legislation establishes a faculty association as the bargaining agent for academic staff and requires the institution to bargain with the faculty association toward a collective agreement. The *Post-secondary Learning Act* neither prescribes a collective bargaining process nor sets out unfair labour practices. It requires the institution and bargaining agent to set out provisions governing the bargaining process in the faculty agreement itself, which may be enforced through arbitration.



# The Construction Industry

<a href="#"><u>Registered Employers' Organizations</u></a>	62
<a href="#"><u>The Effect of Construction Registration on Employers</u></a>	64
<a href="#"><u>The Construction Bargaining Cycle</u></a>	65
<a href="#"><u>Strike and Lockout Votes in Construction</u></a>	66
<a href="#"><u>Strikes and Lockouts in Construction</u></a>	67
<a href="#"><u>Arbitrating the Last Disputes</u></a>	67
<a href="#"><u>Separate Collective Agreements for Major Projects</u></a>	67
<a href="#"><u>Common Employer Declarations in the Construction Industry</u></a>	68

# The Construction Industry

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The construction industry represents a large portion of the Alberta work force. Construction work moves from project to project and involves many different types of skilled employees. Collective bargaining in the construction industry is governed by a special part of the Labour Relations Code (“the *Code*”). Under the *Code*’s definition, construction work includes the construction, alteration, decoration, restoration or demolition of buildings, roads, pipelines and similar projects, but excludes maintenance work and the delivery of goods to a construction site ([Section 1\(g\)](#)). As the term is used in the *Code*, not all work performed by construction tradespeople is construction work. Service and repair work, for example, are excluded from the *Code*’s special construction provisions, although they are routinely performed by the same people who do construction work.

For the [construction industry](#), the Labour Relations Board (“the Board”) has a policy of certifying employees based on employment skills. The Board’s [Information Bulletin #12](#) discusses the Board’s policy in detail. This means the Board will certify an employer’s carpenters, plumbers, electricians or sheet metal workers, each in separate bargaining units. This practice is followed because the large majority of trade unions representing construction workers are organized on craft lines (e.g., electricians in the electricians’ union, plumbers in the plumbers’ union). Bargaining in the construction industry generally follows the same craft breakdown.

## Registered Employers’ Organizations

There are many employers in the construction industry. The *Code* gives these employers the opportunity to form employers’ organizations to bargain on their behalf with a group of trade unions within a particular trade and sector. The Board’s [Information Bulletin #12](#) describes the Board’s policy on registration in the construction industry. An employers’ organization can apply to the Board for a [registration certificate](#). As with trade union certification, an employers’ organization, once registered, is authorized to bargain on behalf of all affected employers for a collective agreement that will be binding on all of them ([Section 176](#)).

An employers’ organization can apply to be registered for a part of the construction industry. A “part” is a province-wide group of employers in one sector and in one trade jurisdiction. For example, an employers’ organization could be registered to represent all the unionized employers in the province engaged in plumbing and pipefitting work within the general construction sector.

This would mean that the local unions representing plumbers and pipefitters throughout the province would bargain with the registered employers' organization acting on behalf of all unionized employers employing plumbers and pipefitters within the general construction sector of the industry. The result would be a collective agreement that covered all those employers and employees. As new employers become certified, they too are bound by the registration collective agreement and must comply with its terms.

Once registered, an employers' organization has a duty to fairly represent all affected employers whether or not they belong to the employers' organization. A registered employers' organization may choose to assess dues from employers bound by the registration collective agreement. Any such dues must be assessed uniformly and be reasonably related to the organization's duties under the *Code*. Unpaid dues may be collected by civil action ([Section 165](#)).

***What is a trade jurisdiction?***

A trade jurisdiction simply means a type of construction craft. The trade jurisdictions the Board uses to grant registration certificates reflect the various categories used in the apprenticeship program to define the various trades qualifications. The Board's [Information Bulletin #11](#) discusses the Board's policy in detail. These include carpenters, electricians, labourers, operating engineers and plumbers. The trade jurisdictions also reflect the definitions used by building trade unions to define which union has authority to represent a particular group of workers.

***What is a sector?***

A sector of the construction industry is defined by the type of project; the pipeline sector or the general construction sector, for example. There are four construction sectors: pipeline construction; roadbuilding and heavy construction; general construction; and specialty construction. Some contractors restrict their activities to a particular sector, others operate in several.

***How does an employers' organization become registered?***

An employers' organization may apply to become a registered employers' organization in much the same way as a trade union can apply to become certified. It must have filed a constitution or bylaws with the Board ([Section 164](#)). The organization must have 40% of employers in the relevant part of the construction industry as members ([Section 167](#)). When the Board receives an application it conducts an inquiry to determine whether the application is timely (considering any seasonal nature of the work) and whether the part of the industry claimed is an appropriate part for collective bargaining, and also whether the grouping of trade unions is appropriate.

If it is satisfied with these elements of the application, the Board will conduct a representation vote of the affected employers ([Section 168](#)).

## **The Effect of Construction Registration on Employers**

An employer is only affected by a registration if it has a bargaining relationship with a building trade union listed in that registration. The relationship may arise through certification, voluntary recognition or by the employer agreeing to be bound by terms in a [registration collective agreement](#).

If there is no relationship between the employer and a relevant building trade union, the employer will not be directly affected by registration. If there is a bargaining relationship, the employer will be affected. The employer will also be bound by any registration agreement negotiated by the registered employers' organization because, by law, that organization has authority to bargain on the employer's behalf. An employer is only bound by a registration to the extent of the employer's bargaining obligations with the trade union ([Section 176](#)).

For example, while registration is always province-wide, an employer may only have a bargaining relationship with a local trade union operating in a particular area. The effect of registration will be equally limited. The effect of registration is also limited by the scope of the registration certificate. It applies only to the employer's operations in the particular sector and trade jurisdiction listed in the certificate and not to any other operations the employer may be engaged in.

### ***What if the employer has a bargaining relationship with a union, but there is no registration in place?***

It is up to unionized employers operating in a part of the construction industry to decide, collectively, whether they want registration. If a majority choose registration, it then covers all employers, including any minority employers who may not want it. If the majority decides against registration, then all employers are free to make their own bargaining arrangements and are not affected by registration for that part of the industry.

This means that the employer and the trade union with which it has a bargaining relationship can deal with each other one-on-one. They can negotiate directly with each other for a collective agreement. If they cannot reach agreement, any strike or lockout action involves only the employees of the individual employer. Generally, all regular rules for non-construction bargaining apply.

If there is no registration in place, employers can still choose the less formal group bargaining available to all employers under the Code ([Section 62](#)). Unlike registration,

where an employer is bound as a result of the choice of a majority of employers, it is an employer's choice whether or not to become involved in voluntary group bargaining ([Section 62](#)).

***What happens when a construction employer becomes certified?***

If there is no registration certificate in place, the employer is like any other employer and the Board's usual procedures apply.

When a construction employer becomes subject to certification by a union local for activities falling under a registration certificate, that employer is affected by registration. That means if a collective agreement is in effect, the employer is immediately bound by that agreement and must comply with its terms and conditions. If no agreement is in effect, the employees and employers become part of the dispute between the union and the registered employers' organization and join that dispute at whatever stage it has reached.

***Can the registration of an employers' organization be cancelled?***

Yes. The *Code* allows parties affected by registration to apply for termination. The Board will cancel a registration when it is satisfied the registered employers' organization no longer enjoys majority employer support. There are time limitations on when such an application can be made. If termination is granted while a collective agreement is in force, the agreement continues to bind the various employers and trade unions on an individual basis ([Sections 181, 182](#)).

## **The Construction Bargaining Cycle**

The *Code* provides that any agreement to which the [construction industry](#) provisions of the *Code* apply must expire on April 30 each second (odd-numbered) year. This creates a specific bargaining cycle within the industry, with all collective agreements coming up for renegotiation at the same time. The Board's [Information Bulletin #12](#) as well as the [Policy and Procedure Manual](#) specifically describes the Board's policy on registration in the construction industry.

A strike or lockout affecting one trade can easily affect other trades working on the same project. The provisions in the *Code* are designed to reduce these disruptions while preserving free but orderly collective bargaining.

Some time before the start of bargaining, the Board holds a hearing and decides on a consolidation order. For the limited purpose of registration, this order consolidates trade union groups.

When registered trades are consolidated they still bargain independently of each other. However, strike votes and strikes must all occur at the same time. The same is true of lockout votes and lockouts. Industry-wide coordinating agencies may be formed but do not take part in bargaining ([Section 193](#)). By requiring consolidated action, the *Code* prevents a series of shutdowns in the industry, with one trade after another shutting down the same construction project.

When there is a registration in place, the trade unions cannot bargain directly with the employer; they can do so only with the [registered employers' organization](#). On one side of the negotiating table will be the group of trade unions representing the employees in that sector and trade jurisdiction within the province; on the other side of the table will be the registered employers' organization, speaking on behalf of all the employers who have a bargaining relationship with those trade unions.

## **Strike and Lockout Votes in Construction**

Construction bargaining between registered employers' organizations and groups of trade unions often involves many employees and employers. Before a [strike or lockout](#) can occur, a Board-supervised vote must be taken. No strike or lockout can legally occur until such a vote has been taken and has resulted in a vote in favour of either the strike or lockout.

Rather than take a separate strike or lockout vote for the employees or employers affected by each registration certificate, votes are supervised on a coordinated basis. A vote will not be conducted until at least 60% of the groups of unions or registered employers' organizations grouped together in a consolidation order apply for a vote (excluding those groups that have already settled). These consolidation provisions only apply to unions and employers affected by registration.

Once the Board has a sufficient number of strike vote requests it will supervise one coordinated vote. Employees in each trade will be polled separately, but once their votes are counted those votes will be added together to give an industry-wide total.

For a strike vote to be carried, 60% of the employees, overall, must be in favour of strike action. In addition, a majority of employees in each of 60% of the trade union groups must also support strike action ([Section 185](#)).

By checking support on a union-by-union, as well as on an overall basis, the *Code* ensures strike action has industry-wide approval. The double majority test balances the influence of the larger and smaller trade unions in such an important decision.

Exactly the same rules and percentages apply to employers, should they wish to conduct a lockout vote and take lockout action.

Should a strike or lockout vote fail, the parties would be forced to resume their negotiations without taking strike or lockout action. They could take a new vote later if some or all of the agreements remained unsettled.

## **Strikes and Lockouts in Construction**

As with regular collective bargaining, no strike or lockout can take place without a notice and a supporting vote from the affected employers and employees. In the construction industry, there is an additional requirement: all unions or registered employers' organizations affected by a Board consolidation order must take such action together. This rule only affects those groups of unions and organizations that have not already arrived at a collective agreement. Once consolidated strike or lockout action has been taken, each trade can still settle its dispute and go back to work, even though the remainder of the trades stay out on strike or lockout.

Once a registration strike or lockout has lasted 60 days, an individual employer can make an interim deal (called a "settlement") with the trade union ([Section 82](#)). That employer's work may then resume while the industry-wide dispute goes on. Such a settlement lasts only until the industry-wide agreement is concluded, or any shorter time the parties may have agreed upon.

## **Arbitrating the Last Disputes**

Once 75% of the registered employers' organizations and the groups of trade unions in a sector have settled their differences, the pattern of settlements is to some extent set. Recognizing this, the *Code* establishes a binding arbitration mechanism to settle the remaining disputes affected by registration in that sector. When settlements reach 75%, the Minister of Labour will refer the remaining disputes to a board called the construction industry disputes resolution tribunal.

The effect of this referral is to end any strikes or lockouts that may have started. The *Code* requires the parties to go back to work at the old rates until the disputes resolution tribunal has met and rendered its decision on the terms of the new agreements ([Section 189](#)).

## **Separate Collective Agreements for Major Projects**

[Registration bargaining](#) is province-wide. The *Code* allows an exception to this for certain major construction projects. An owner or principal contractor may apply to the Cabinet for

authorization to bargain a collective agreement to apply only to the construction of that project.

If this approval is granted, the owner or principal contractor is given the authority to negotiate a collective agreement with the unions that will apply only to the contractors who work on the project. If the owner or principal contractor can negotiate such an agreement with the various building trade unions, work on that project will then be excluded from any registration bargaining and registration collective agreements for as long as the project agreements last. Neither the owner (nor principal contractor) nor any trade union can try to force such an agreement by strike or lockout action. This provision simply gives an opportunity to bargain such a project agreement voluntarily ([Section 197](#)).

### **Common Employer Declarations in the Construction Industry**

The rules for common employer declarations that apply to non-construction employers also apply to construction employers. There is an important modification. The Board is not empowered to make a common employer declaration in respect of a corporation, partnership, person or association of persons that does not employ employees who perform work of the kind performed by members of the trade union that makes the application ([Section 192\(3\)](#)).



## Conclusion and Caution

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This guide is, by necessity, a summary. Those seeking more detailed information should review the *Code*, the Board's Rules of Procedure, Voting Rules, Information Bulletins and Board [decisions](#). Laws and policies change. Anyone making a decision about their rights under the *Code* should not rely on this general guide but should seek the help of an experienced practitioner.

# Publications

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## Information Bulletins

The Board has several [Information Bulletins](#), which explain the Board's policies, and procedures concerning various labour relations matters. The Bulletins are available at the Board's offices in Edmonton or Calgary or viewing or printing on the Board's website at [www.alrb.gov.ab.ca](http://www.alrb.gov.ab.ca).

## Practitioner's Manual

Prepared by the Alberta Labour Relations Board, the Practitioner's Manual provides detailed information about the Labour Relations Code. It includes an annotated *Code*, the Board's Information Bulletins and Rules and other useful information. A subscription includes regular quarterly updates. The Practitioner's Manual is available from the Legal Education Society of Alberta, located at 2610, Canada Trust Tower, 10104 -103 Ave, Edmonton, AB T5J 0H8.

## Alberta Labour Relations Board Reports

The Alberta Labour Relations Board Reports is a subscription service published by the Legal Education Society of Alberta. Included in the Reports are Board decisions from 1988 to present, a case table, full text of decisions of the Alberta Labour Relations Board and related Court decisions. They also have case headnotes, keyword/subject indexes, and updates on Court challenges to Board decisions. This subscription is available from the Legal Education Society of Alberta.

Full text and indexes of all Board decisions issued since 1986 can be accessed through the Quicklaw database service. Decisions issued since 2008 are also available free on-line at [www.canLii.org](http://www.canLii.org). Board decisions issued since 1988 are found on-line on the Labour Relations Board website. Decisions prior to 1988 can be obtained by contacting the Edmonton office.

## Policy and Procedure Manual

The Policy and Procedure Manual addresses various issues relating to the Board and its day-to-day work administering the [Labour Relations Code](#) and other labour legislation. It is a useful resource for Board staff and members as well as the public generally. It covers various topics ranging from the Board's jurisdiction to a review of how the Board handles applications, complaints and references.

## **Internet**

Link to all of the Labour Relations Board's publications from our website - [alrb.gov.ab.ca](http://alrb.gov.ab.ca), including this Guide. Publications such as Board [decisions](#) are immediately posted within the day of release. Available on-line are the Board's [Information Bulletins](#), [Voting Rules](#) and [Rules of Procedure](#). Access is available to the [Labour Relations Code](#), the [Public Service Employee Relations Act](#) and the [Police Officers Collective Bargaining Act](#). You can also link to other Board publications such as the Board's [Hearing Schedule](#), [Active Certificates](#), [Discussion Papers](#), [Forms](#), [Annual Report](#) and [Applications](#).

# Glossary of Labour Relations Terms

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**Arbitration:** a method of settling a labour-management dispute by having an impartial arbitrator or arbitration board render a decision that is binding on both the trade union and the employer.

**Bargaining agent:** a trade union acting on behalf of employees in collective bargaining or as a party to a collective agreement with an employer or employers' organization.

**Bargaining rights:** the exclusive authority given to a trade union to represent a group of employees of a particular employer or to a registered employers' organization to represent a group of employers in the construction industry.

**Bargaining unit:** a group of employees appropriate for collective bargaining.

**Cease-and-desist declaration:** a declaration by the Labour Relations Board directing a party to stop an activity that is prohibited under the Labour Relations Code.

**Certification:** official recognition by the Labour Relations Board that a trade union is the exclusive bargaining representative for employees in a particular unit.

**Collective agreement:** an agreement in writing between an employer or employers' organization and a bargaining agent, containing terms or conditions of employment that are binding on the employer, the trade union and the employees covered by the agreement.

**Collective bargaining:** a method of determining wages, hours and other conditions of employment through direct negotiations between a trade union and an employer.

**Compulsory Arbitration Board:** When an impasse in mediated negotiations is reached between parties without the right to strike or lockout under the *Code* or those employers and employees covered by the *PSEERA*, the parties involved (or the Minister of Labour) may request the appointment of this board to hear the dispute and decide on a resolution.

**Construction:** includes construction, alteration, decoration, restoration or demolition of buildings, structures, roads, sewers, water or gas mains, pipelines, dams, tunnels, bridges, railways, canals or other works, but not including delivery to a construction site or maintenance work.

**Construction Industry Disputes Resolution Tribunal:** General construction disputes can be referred to this board once 75% of the trade divisions have ratified collective agreements and the remaining 25% have not, providing that one of the 25% make a request to the Minister of Labour for this board.

**Dispute:** when an employer and a trade union representing the employees cannot agree upon the terms and conditions of a collective agreement.

**Disputes Inquiry Board:** a board established by the Minister of Labour to inquire into and endeavour to settle a collective bargaining dispute.

**Duty of fair representation:** the duty of a trade union to fairly represent employees in the bargaining unit with regard to their rights under the collective agreement.

**Employers' organization:** an organization of employers acting on behalf of a number of employers, having as one of its objectives the regulation of relations between employers and employees.

**Good-faith bargaining:** bargaining in which the two parties make every reasonable effort to reach a collective agreement.

**Grievance:** a disagreement over the interpretation of a provision in a collective agreement, or an allegation by one party that the other has violated the terms of the agreement.

**Grievance procedure:** the process contained in a collective agreement for the settlement of disagreements over the interpretation of a provision in a collective agreement, or an allegation by one party that the other has violated the terms of the agreement.

**Group of trade unions:** one or more trade unions grouped together in an application for a registration certificate or in a registration certificate.

**Interest arbitration (collective agreement arbitration):** a method of settling a collective bargaining dispute by having an impartial arbitrator or arbitration board render a decision about the contents of a collective agreement that is binding on both the trade union and the employer.

**Labour Relations Code:** the basic statute regulating labour relations and collective bargaining in Alberta.

**Labour Relations Board:** the agency established under the Labour Relations Code to administer the Code.

**Lockout:** the closing of a place of employment by an employer, the suspension of work by an employer, or the refusal by an employer to continue to employ employees for the purpose of compelling its employees, or to aid another employer in compelling its employees, to accept terms or conditions of employment.

**Lockout notice:** an announcement of an employer's intention to lock out employees, given in writing by an employer to the trade union and the mediator.

**Lockout vote:** a vote of an employer or employers' association to decide if it or the members wish to take lockout action.

**Mediation:** a method of encouraging and assisting in the settlement of collective bargaining disputes in which the parties to a dispute use a third person, called a mediator, to assist them.

**Mediator:** a person appointed by the Director of [Mediation Services](#) or, in some cases, agreed upon by the employer and the trade union, to mediate.

**Notice to bargain:** a notice, served by either the trade union or employer on the other, to initiate collective bargaining.

**Officer:** a person designated by the Chair of the Labour Relations Board as an officer of the Board for the purposes of the Labour Relations Code.

**Open period (also called a "window period"):** the period during which certain applications to the Labour Relations Board can be made.

**Part of the construction industry:** that part of the construction industry that operates within a particular trade jurisdiction and a particular sector.

**Picketing:** patrolling around but not on an employer's premises to increase the pressure on the employer to come to an agreement with the trade union.

**Proposal vote:** a vote conducted by the Labour Relations Board to determine whether or not a party wishes to accept a collective bargaining offer made by the other party, a mediator's recommendation or the recommendation of a Disputes Inquiry Board.

**Raiding:** an attempt by one trade union to induce members of another trade union to support the new trade union.

**Registration:** official recognition by the Labour Relations Board that an employers' organization is the exclusive bargaining agent for employers in a part of the construction industry.

**Representation vote:** a vote conducted by the Labour Relations Board to determine whether employees in a bargaining unit or employers in the construction industry want to have a particular trade union or employers' organization represent them as their bargaining agent or want to revoke those bargaining rights.

**Returning officer:** a person in charge of a vote.

**Revocation (decertification):** the removal of the exclusive bargaining rights of a trade union by the Labour Relations Board.

**Rights arbitration (grievance arbitration):** a method of settling collective agreement interpretation difficulties or disputes over the discipline or discharge of an employee by having an impartial arbitrator or arbitration board render a decision that is binding on both the trade union and the employer.

**Sector:** a division of the construction industry specified in the regulations as determined by work characteristics (e.g., roadbuilding, general construction).

**Strike:** a cessation of work, a refusal to work, or a refusal to continue to work, by two or more employees acting in combination with a common understanding for the purpose of compelling their employer or an employers' organization to agree to terms or conditions of employment, or to aid other employees to compel their employer or employers' organization to accept terms or conditions of employment.

**Strike notice:** an announcement that the employees will go out on strike at a certain time, given in writing to the employer and the mediator by the trade union.

**Strike vote:** a vote by employees to decide if they are prepared to take strike action to settle a dispute.

**Successor employer:** an employer who becomes bound to a collective agreement or a certificate that was binding on another employer.

**Successor union:** a trade union that succeeds and takes over from another trade union by means of a merger, amalgamation or transfer of jurisdiction, and acquires the rights of the previous union under a certificate or a collective agreement.

**Trade jurisdiction:** a trade jurisdiction in the construction industry is a type of construction work (e.g., electrical work, carpentry). In establishing trade jurisdictions for the purposes of labour relations, the Board uses the various categories used in the apprenticeship program.

**Trade union:** an organization of employees that has a written constitution, rules or bylaws, and has as one of its objectives the regulation of relations between employers and employees.

**Unfair labour practice:** a contravention of any provision of the Labour Relations Code committed by an employer, employers' organization, trade union or individual.

**Union security clause:** a provision in a collective agreement making trade union membership or payment of union dues compulsory for all or some of the employees in a bargaining unit.

**Voluntary Arbitration:** When a dispute cannot be resolved through negotiations, with or without the assistance of a mediator, the parties to the dispute, whether in the public or private sector, can request and must agree to this process.

**Voluntary recognition:** the recognition by an employer of a trade union as the exclusive bargaining agent for a group of employees.

**Wages:** any salary, pay, overtime pay and any other remuneration for work or services however computed, but not including tips and other gratuities.