

STRIKES/LOCKOUTS BY OTHER PERSONNEL EMPLOYED BY THE SCHOOL BOARD

WHAT CAN MEMBERS DO TO SUPPORT STRIKING/LOCKED OUT PERSONNEL?

Many collective agreements contain clauses that state that bargaining unit members must report to work even though other school board personnel may be on strike or locked out. However, there are a variety of ways Members can show their solidarity with the striking/locked out workers.

1. Honour picket lines by requesting permission to cross each time it is necessary to do so. Preferably a time should be arranged for the entire group to enter the workplace together.
2. Do not *voluntarily* do the jobs of striking/locked out workers.
3. Provide support, solidarity and morale by purchasing/donating coffee and donuts for workers walking the picket line.

NOTE: There are a number of “cautions” in these circumstances of which Members should be aware. Please refer to the section entitled: “Employment Insurance Act”, pages 4 and 5.

WHAT SHOULD MEMBERS DO IF MANAGEMENT MAKES DEMANDS?

In the event that management/supervisors/principals instruct Members to do the work of striking/locked out employees, the following procedure should be carried out:

- ➡ Inform management/supervisor/principal that it is not your job to do what is ordered;
- ➡ If management/supervisor/principal insists, request the order in writing;
- ➡ If management/supervisor/principal continues to insist, follow the direct instructions;
- ➡ If Members believe the instructions violate Federation policies or may undercut the striking/locked out workers, inform management/supervisor/principal that the directions will be followed, but under protest, and that the matter will be referred to the OSSTF Bargaining Unit Executive for action

GENERAL ADVICE

Members ***should not*** follow the direct instructions of a supervisor/principal if they believe that:

- ➡ the instruction will place the Member in violation of the law. For example: If a Teacher Assistant or PSSP Member is instructed to teach a class, this would constitute a violation of the Education Act. (No violation would occur if the Member was instructed to babysit the class.)
- ➡ the instruction would place the Member in jeopardy as defined by the Health and Safety Act. Members should inform management/supervisor/principal that the instruction will be referred to the OSSTF Bargaining Unit Executive for action.

Members should document all instances of management/supervisor/principal directives to require non-striking/locked out OSSTF Members to do the work of striking/locked out workers.

For example:

- ➡ name and position of person giving the instruction/order
- ➡ time and date
- ➡ location
- ➡ instruction/order given.

Members who have any concerns or questions regarding their rights or obligations should contact their local Bargaining Unit Executive or the Provincial Office as soon as possible.

WHAT RIGHTS AND RESPONSIBILITIES DO OSSTF MEMBERS HAVE IF THEY ARE LAID OFF AS A RESULT OF THE STRIKE OR LOCKOUT OF OTHER BOARD PERSONNEL?

There have been circumstances where employees who are not members of a striking/locked out group of employees have been laid off by the school board as a result of the labour dispute.

To ensure the protection of OSSTF Members who may become involved in this type of situation and who also want to voluntarily show support for the striking/locked out employees, the following advice and information is provided:

A. Employment Insurance Act

Laid off Members are eligible for Employment Insurance benefits if they meet the statutory requirements of eligibility.

In general, Members who are laid off as a result of other school board personnel going on strike or being locked out, are able to collect benefits subject to the waiting provisions. However, any indication that Members (claimants) are *participating in, financing or have a direct interest* in the labour dispute, may lead to disenfranchisement.

● **PARTICIPATING:**

Participating in a labour dispute has been interpreted in many ways for Employment Insurance benefit purposes. Members (claimants) should be *very cautious* about doing anything which could be construed as participation. These could include, but are not limited to, such actions as taking part in a picket line, signing petitions, attending meetings and rallies, etc.

● **FINANCING:**

Financing implies a meaningful connection. For example: it has been held that a direct and voluntary contribution by a claimant to a strike fund is “financing” and results in disenfranchisement. Members are therefore cautioned about making overt financial donations to striking/locked out employees while receiving benefits.

● DIRECT INTEREST:

Direct interest, in general, should not apply to OSSTF Members laid off as a result of other school board employees being on strike/locked out, although a possibility does exist. Long-term occasional teachers could be said to have a “direct interest” in a work stoppage by their regular day school colleagues (TBU) since, in some cases, their salary rates are linked.

When Members are laid off owing to a strike or lock out, and claim and receive benefits, they are advised to use caution with respect to participating in and financing a work stoppage (strike/lockout) involving other school board personnel. The employing school board may have an interest in objecting to laid-off employees receiving benefits and could conceivably employ surveillance or other means to establish that Members are engaging in support of striking/locked out personnel and should, therefore, be disentitled to benefits. Also, other employees/personnel could also complain, with the result that the Human Resources Development Canada might investigate.

BOTTOM LINE - BE CAUTIOUS AND SEEK ADVICE BEFORE ACTING. Members are encouraged to contact local Bargaining Unit executives, the local District or Division or the Provincial Office for more specific advice.

B. Employment Standards Act

Laid-off Members *are not* entitled to notice of termination and severance pay. Regulation 327 under the Employment Standards Act *exempts* employees who are laid off or terminated during, or as a result of a strike/lockout. This means that Members laid off as the result of a strike/lockout by another Bargaining Unit would not be entitled to notice of termination nor any pay in lieu.