

CAAT-A Faculty Strike Questions: 2010

1. Will there be a strike?

No one can say for sure whether there will be a strike. Three out of four times since the 1970's strike, votes have resulted in settlements without a strike. In 2004, settlement was reached on the eve of a strike. In 2006, there was a strike over workload issues.

2. How long will a strike last?

There have been three strikes – October 1984, October 1989, and March 2006. All three lasted about 3 weeks. No one can say for sure how long a strike will last. The Colleges and their bargaining team chair have announced that colleges are making plans to make up for lost teaching weeks should there be a strike. It is extremely difficult to believe that the colleges or the provincial government would allow a labour dispute to cause nearly 250,000 college students to lose their year.

3. How much is strike pay, if there is a strike?

Local 560 strikers can count on receiving strike pay from both OPSEU and Local 560:

- OPSEU pay for strike duties is \$125 per week, plus \$20 per week for each dependant. Should a strike go beyond a third week, the basic weekly payment increases to \$200. Strike pay is not taxable and there are no other deductions.
- Local 560 has a strike fund of over \$1,000,000 to augment strike pay. At the Pre-Strike meeting, Local 560 members will determine by vote how to use these funds. In the past, we have paid striking members \$375 per week, non-taxable.

[OPSEU Strike Policy Manual]

4. What will it take to get a settlement? And will we get a settlement?

The critical issues are workload and the implementation of the 2009 Workload Task Force Report. The colleges have alleged that the union is seeking a two-teaching-hour reduction per week. THERE IS NO SUCH DEMAND. Neither is there any demand that would lead to this result. Other issues exist but are less contentious and should be resolvable. Those are in compensation and gains for partial-load teachers.

The Task Force Report was unanimously agreed to in March 2009. Nonetheless, the Colleges' negotiators have refused to accept several of the key recommendations. The union has accepted all the recommendations.

The assertions of the colleges regarding "affordability" are bargaining rhetoric not grounded in the available data. The real costs of the union demands are well within the colleges funding mandate. The factors blocking a settlement are not fiscal but issues of academic control.

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The union proposals are reasonable, common in many other post-secondary systems including community colleges, cost-neutral, and most importantly of all, recommended by a Task Force chaired by an independent observer who studied our workload system in depth.

Settlement depends on the Colleges' willingness to live up to the unanimous Task Force Report findings and recommendations.

[Task Force Report – OPSEU website:

http://www.opseu.org/caat/caat_ac/workloadtaskforcereport_mar_2009.pdf]

5. When can faculty expect a vote on the offer?

The Colleges can take a vote on their offer at any time. The union has invited them to do so on more than one occasion.

The union will conduct a ratification vote when it believes that the offer will be acceptable to the membership.

[CCBA Section 17:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_08c15_e.htm]

6. If there is a strike, and faculty cross the picket line, will they get paid? Will it be at their regular rate?

Under the revised Colleges Collective Bargaining Act, bargaining unit members can be remunerated for working for the college during a strike or lockout. Each individual who wishes to participate in strikebreaking would have to request this from the college. The terms will be set by the college and need not be the same as exists now. The terms can be cancelled by the college at any time.

The Colleges are not obliged to continue to offer work.

Several Colleges have announced that day programs will NOT continue during a strike or lockout.

[CCBA Section 51]

7. If a faculty member accepts the college's terms and goes into work, can that person later decide to join the strike?

Yes, the decision is unconditional but is not irrevocable and can be withdrawn at any time.

[CCBA Section 51:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_08c15_e.htm]

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8. Could a college where the majority voted against a strike mandate have a local agreement and return to work under a local contract?

No. This is a province-wide vote and therefore, if it happens, a province-wide strike. The decision whether or not one college or some colleges stay open or if 24 colleges stay open is entirely up to the central body to determine.

There can be no local agreements without approval of the Union.

Management could lock out faculty at some colleges and leave other colleges open. Such an action would result in a province-wide strike if the union chose to respond that way.

[Collective Agreement Article 1.01 http://www.opseu.org/caat/caat_ac/ca.htm and CCBA 17: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_08c15_e.htm]

9. I teach online courses. No one will know if I continue to teach during a strike. I could picket and teach without disadvantaging my students.

In the event of a strike, the faculty would be expected to honour the picket line and this includes ending activity such as that described. Should the employee do this work on their own, they would not be paid by the college and they would not receive strike pay. They would be considered “strikebreakers” in accordance with the OPSEU policy. Strikebreaking only prolongs a strike and creates unhealthy and unwelcome labour and interpersonal relations.

Aside from the ethical concerns about being deceitful, other faculty will almost certainly learn what is happening, from students if not from others.

[CCBA Definitions:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_08c15_e.htm]

10. There are only two full-time faculty in my program and four part-timers in my program. My Chair is planning to keep the program open even if we both go on strike. He said he would prefer us not to go on strike.

This is a provincial action. If we go on strike, it will be all colleges in Ontario. There are hundreds of programs, some taught predominantly by part-time teachers, others by full-time teachers. Many programs must meet provincial, industrial or university requirements and standards. While it is true some courses could be taught successfully by part-timers, the majority of college programs cannot meet all the requirements to graduate their students. In the past, students did not show up if they could not get their full curriculum.

No employer representative should be attempting to coerce, intimidate, make promises, or discriminate in any way. The employer is not to interfere with employees rights. Any evidence of such tactics should be forwarded to the union local asap.

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[CCBA Section 53:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_08c15_e.htm]

11. Is the right to cross the picket line new in the revised CCBA?

No, the previous CCBA did not prevent faculty from crossing picket lines. It was the Colleges that asked faculty not to come into work. Most, but not all did that. It did prevent them from receiving salary or benefits. The revised CCBA allows members to be paid if they sign an unconditional acceptance of any terms or conditions management might impose.

[CCBA Section 51]

12. My Chair has asked our faculty to cross the picket line. We are divided about what is right and there is a lot of arguing and hard feelings in our program. What should I do? Strike or keep the peace?

First, no employer representative should be attempting to coerce, intimidate, make promises, or discriminate in any way. The employer is not to interfere with employees rights.

Significant gains in quality have come because faculty took action, including strike votes and even strikes when necessary. This is no different. Colleges today deliver better quality because of the workload formula which was won though a strike in 1984 and a “yes” vote without a strike in the very next round of bargaining.

The 2009 Task Force Report made recommendations to maintain and enhance quality. That is what this is all about.

Current students may not feel that diminished quality, but future students will be affected. Faculty need to think hard about whether they are prepared to fight this or sanction the destruction of quality.

Management can prevent a strike by bargaining in good faith. It is unfair to put the entire burden of responsibility on faculty.

[CCBA Section 53:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_08c15_e.htm]

13. I am a coordinator and my Chair has asked me to meet her off campus during a strike to help keep the program open during a strike. Can I do this if I am not crossing a picket line?

If there is a strike, all bargaining unit members, including faculty who are coordinators, will be on strike. Meeting with management to discuss courses, programs and strategizing on teaching those courses during a strike is strikebreaking.

No employer representative should be attempting to coerce, intimidate, make promises, or discriminate in any way. The employer is not to interfere with employees rights. Any evidence of such tactics should be forwarded to the union local asap.

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[CCBA Section 53:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_08c15_e.htm]

14. We have a lot of second career students and they are asking our faculty to not go on strike because they will not be able to support their families. I feel obliged not to strike. What will happen to me if I continue to work?

Nearly all students are concerned about the effect of a strike on their studies. No student has lost their year in the past due to strike action at the colleges. If a faculty member continues to teach during a strike it is strikebreaking. There are sanctions which OPSEU may impose. Those are defined in answer to another question.

Strikebreaking will prolong the strike and disadvantage faculty and students.

15. If faculty are on strike, can I continue to work with my students on the web-based system? What about non-teaching work?

If we are on strike all faculty work ceases until the resumption of work. Doing our work on-line or in any other way, whether that is teaching or other duties, is strike breaking.

[CCBA definitions:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_08c15_e.htm]

16. My colleague plans to continue to teach by conducting classes off campus. Apparently, my colleague did this during the last strike and was not penalized. The colleague said this time faculty would get paid. Should I go along with the plan?

No, it violates the CCBA. If a strike is necessary, all faculty work ceases. To continue to teach during a strike is strike breaking. The CCBA sets the conditions for faculty who ask to work during a strike. The OPSEU constitution states that all earnings from the employer during a strike become union dues payable. It is irrelevant if the classes are conducted on or off campus.

[CCBA Section 51:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_08c15_e.htm]

17. I teach in the university program for nursing and the graduate students are being trained and tested for an international program in April. The deadline is definite and the travel dates are set and paid for. The students have asked me not to withdraw my services. What should I do?

If it is necessary to strike, the colleges in Ontario will be “struck” facilities and faculty who continue to teach are strikebreakers. Students can and should be advised to tell the college president to tell college negotiators to negotiate in good faith in order to prevent a strike.

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18. What is the official position on teachers having contact with students during the strike period?

Contact with students is fine if it is limited to matters unrelated to your courses or the student's academic performance, or counselling. Updates on bargaining are perfectly fine during any strike. If there is a strike, faculty will not be working, they will be on strike.

19. I heard my colleague talking to a group of students. He told them that some faculty at the College plan to continue to teach if there is a strike. Is OPSEU going to make a statement about crossing the picket line?

Definitely. OPSEU will advise faculty of the OPSEU policy on strikebreaking.

Union dues for persons working a struck employer are 100% of earnings. Strikebreakers risk being expelled from union membership.

Crossing the line will only prolong a strike. The majority of faculty have voted and spoken. No one is obliged to take part in any strike duties, but to violate the will and the wishes of the majority of voters is anti-democratic.

[OPSEU Constitution Article 30: <http://www.opseu.org/constitution/index.htm>, and Strike Manual: _____]

20. If bargaining unit members cross the picket line to work and receive pay during a strike, will the union charge them a penalty on their monthly dues? Has this happened before? How much would the penalty be?

The OPSEU Constitution provides penalties for strikebreakers including increasing union dues to 100% of earnings from the struck employer, suspension of membership, and loss of rights as a union member.

Yes, the union has been in this situation in the past and has taken action.

[OPSEU Constitution, Article 30:
<http://www.opseu.org/constitution/index.htm>]

21. I heard that someone said that I would be fined if I cross the picket line. How could the union collect the fine?

There is not a "fine." All Unions are entitled to set dues and all bargaining unit members are obliged under the "Rand Formula" to pay such dues. The OPSEU Constitution directs OPSEU to take legal action to collect payment of dues. Fighting collection will cost time and money.

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[Canada Labour Code Section 70 : <http://www.hrsdc.gc.ca/eng/lp/lo/fil/part1/index-fil.shtml>,
CCBA Section 13: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_08c15_e.htm] , OPSEU Constitution
Article 30.2.2 : <http://www.opseu.org/constitution/index.htm>]

22. I heard that the earliest we would go on strike is Feb 15. Why would we start a strike on Family Day? Wouldn't the college be glad not to have to pay us?

A strike date has not been scheduled. February 15 is not an option: the union would never begin a strike on a statutory holiday. February 15 has been suggested by management at some colleges.

23. Why would we go on strike during study week when many faculty have no classes?

Study week varies from college to college, as early as the week of February 15 and as late as the week of March 15. A strike date has not been set, but should it be necessary to set a date, the union will give consideration to all the variables.

24. If there is a strike, does the college freeze our emails, phones, etc.?

This would be a decision made college by college. Some may freeze college owned and operated communication tools; others may not. The College could also ask that faculty return any college-owned property.

25. What happens to someone like me, who is retiring within the next five years if we strike? Who tops up--the college or the union for the part of the pension payment that is not mine?

Pension is calculated on your best 60 months of earnings, usually your last five years. The pension plans allow employees to make up – “buy back” - for lost earnings due to a strike or lockout. Top ups typically are the responsibility of the faculty member. Several of the local unions have a fund to top up pension contributions by paying the employer's 50% share. The buy-back must be made before retirement.

26. I have booked a holiday in the Caribbean during study break. If we are on strike will I get vacation pay?

Vacation entitlement is considered to be a benefit. If your vacation is booked you will need to arrange to perform alternate strike duties while you are away – such things as writing letters to government officials, the media, etc., or make-up duties for when your vacation ends. Since the vacation will not come from your entitlement, the college will still owe you that week once the strike is over.

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27. I am going on short-term disability leave. Will I get sick benefits if we are on strike? What about long-term disability?

Any salary or sick leave benefit paid by the employer will be cut off by the employer in the event of a strike. Any portion paid by Sun Life, as a part of LTD or any similar plan, would continue.

Persons who have illness during a strike are accommodated with alternate duties or sick leave by the union local.

28. I am getting dental work done. Will my benefits be continued if I am on strike?

OPSEU pays the premium for most benefits if we are on strike, so there should be no disruption to benefits. OPSEU asks that you schedule any discretionary treatments either before or after a strike.

[OPSEU Strike Manual]

29. I am starting paternity leave on February 12. Will I be paid by the College while I am on leave?

Paternity leave benefits which are covered under the Employment Insurance program will continue to be paid. The "top up" paid by the colleges will not be paid during a strike. You could arrange for alternate strike duties in the event of a strike.

[OPSEU Strike Manual]

30. I am on sabbatical. Does a strike affect my sabbatical?

If there is a strike, sabbaticals will be on hold and faculty will be expected to perform strike duties as assigned. The college will not pay salary during a strike.

31. I am on a pre-paid leave. Will payment continue?

Yes, the funds for pre-paid leave have already been set aside to be paid out during the leave [Imposed Terms Article 23:

http://www.opseu.org/caat/caat_ac/2009Bargaining/ACADTermsandConditions2009.pdf]

32. Some colleagues are saying that with faculty crossing the picket line this will be a long strike like at York University. What does the union think?

There is no strike date set and the desire of the faculty bargaining team is to reach a negotiated settlement.

There have been three strikes in the past, October 84, October 89, and March 2006. Each lasted about 3 weeks. While no one can predict the future with absolute certainty, it is

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extremely difficult to see how the colleges or the Minister could justify allowing nearly 250,000 students to lose their entire year.

This is not the York situation - not the same time of year, not the same students, not the same curriculum, not the same union, not even similar bargaining issues.

It is true that strikebreakers can prolong a strike.

33. Can colleges that voted “no” to a strike mandate be locked out? Are the colleges that had a high strike vote more likely to be locked out?

The colleges have had the ability to lock out faculty since November 18. Theoretically they could lock out at some colleges but not others. It would be difficult if not impossible to justify treating students differently based on how their teachers voted. Lock out is not related to the vote results. This was a rumour designed to influence faculty prior to the vote, but it does not stand the test of logic.

34. Why don't we work to rule instead of going on strike?

Working to rule is an option but is problematic with our workload system. Preparation, evaluation/feedback, and complementary functions are assigned for a SWF period but hours may vary greatly from week to week, so it is impossible to say when a teacher hits a cap and should stop doing any more work that day or week.

Partial-load teachers could refuse to do any work outside of the teaching hours for which they are paid, but given that the Colleges have refused to give partial-load any job security, that would leave them especially vulnerable. Counsellors and Librarians could refuse any work that takes them beyond their 35-hour limit.

There are other actions that the union will be asking members to take in the next few weeks to help bring about a negotiated settlement.

35. Why don't we have ONE college go on strike and pay the faculty their full salaries by getting money from OPSEU and the colleges that are still open?

Should it be necessary to go on strike, all possible scenarios will be considered so as not to disadvantage one faculty member at the expense of advantaging others. The purpose of a strike is to get to a resolution. For that reason, it is best to put as much pressure on the employer and the government as possible.