

A Conciliation Primer

Prepared for you by DFA, September 2020

On September 22, 2020, the DFA filed for conciliation. We have prepared the following brief overview to answer your questions.

What happens during conciliation?

Despite a negotiating team's best efforts, an impasse is sometimes reached in collective bargaining. When this occurs it is sometimes necessary to call a conciliator in to try to move negotiations along and get an agreement. Conciliation is required before any job action (strike/lock out) takes place.

Either party can file for conciliation. The Minister of Labour and Advanced Education appoints the conciliator who is a neutral third party trained in negotiation techniques. The conciliator tries to find common ground to help the parties reach a collective agreement. While they have no authority to make decisions for either party, it is their job to get a collective agreement, and they will try to keep both sides talking as long as possible.

While the process can vary, it often follows a general pattern. Initially, the conciliator meets with both parties and hears their points of view. Then, each side meets with the conciliator separately; the conciliator acts as a go-between, trying to get a deal. The conciliation takes place at a neutral site.

What happens if the conciliator cannot get an agreement?

If the conciliator determines that an agreement will not be reached, they declare an impasse and file a confidential report, with the Minister of Labour and Advanced Education, as required under the Trade Union Act. A 14-calendar-day countdown begins the next day. The conciliator may ask the parties to meet during the countdown period in a further attempt to reach a settlement and avoid job action.

If the parties are unable to reach a settlement, the following conditions must be met before either party may engage in legal job action:

1. The 14-calendar-day countdown must expire; and,
2. A written notice of the intention to strike from the union or the intention to lock out Bargaining Unit Members from the employer must be sent to the Minister's office. This cannot be filed before Day 12 of the countdown. This notice starts a 48-hour clock that must run down before a strike or lock-out begins.

Any union intending to strike must also have conducted a secret ballot vote in which the majority of Bargaining Unit Members have voted to support strike action. This vote can be taken at any time, but expires after six months if a strike is approved but not taken.

Who decides whether or not we have reached a tentative settlement?

The DFA's Chief Negotiator and the Bargaining Team determine whether or not to recommend to the DFA Executive Committee to tentatively accept a deal. Under DFA By-law 7, it is the obligation of the Executive Committee to decide whether or not to proceed to a ratification vote of the proposed tentative agreement.

How is a ratification vote conducted?

DFA By-laws 6 & 7 require separate procedures for ratifying the tentative collective agreement depending on whether there is a strike/lockout or the agreement has been concluded without job action.

If an agreement is reached without job action, the Executive Committee determines whether the tentative agreement should proceed to a ratification vote. Details of the proposed contract are explained to the membership at a general meeting and a ratification vote is held by secret ballot. Only DFA members who are in the Bargaining Unit are eligible to vote.

If an agreement has been reached during job action, the same process is followed for ratification, except that a return-to-work protocol negotiated by the two parties is subject to a ratification vote at the same time.

Has DFA filed for conciliation in past rounds of collective bargaining?

In the bargaining rounds held in 1990, 1997, 2001, 2007, 2012 and 2017, the assistance of a conciliator was requested, sometimes by the DFA and sometimes by the Board of Governors.

In the bargaining rounds of 1990, 2007, 2012, and 2017, an agreement was reached with the aid of a conciliator. In 1997 and 2001, agreements were not reached during conciliation. In each case, the conciliator declared an impasse and filed a report. Both times, the DFA called a strike and, both times, the Board immediately locked out the Members.

If you have questions or comments, please contact us at dfa@dal.ca