

## A Primer on Conciliation

*Prepared for you by DFA, January 2018*

### What happens during conciliation?

Despite a negotiating team's best efforts, an impasse is sometimes reached in negotiations. 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 work stoppage takes place.

In the bargaining rounds held in 1990, 1997, 2001, 2007 and 2012, the assistance of a conciliator was requested, sometimes by the DFA and sometimes by the Board of Governors. 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. S/he has no authority to make decisions for either party. However, it is her/his job to get a collective agreement, and s/he 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.

### Has conciliation resulted in a Collective Agreement at Dalhousie?

A collective agreement was reached in 1990, 2007 and 2012 with the aid of a conciliator.

### What happens if the conciliator cannot get an agreement?

If the conciliator determines that an agreement will not be reached, s/he declares an impasse and files a confidential report with the Minister of Labour and Advanced Education. 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 a work stoppage. In 1997 and 2001, agreements were not reached during conciliation. In each case, the conciliator declared an impasse and filed a report, as required under the Trade Union Act. The DFA called a strike both times, and the Board immediately locked out the Members.

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

- i) The 14-calendar-day countdown must expire; and,
- ii) 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?

It is the responsibility of the DFA's chief negotiator and the bargaining team to determine whether to recommend to the DFA Executive Committee to tentatively accept a deal. DFA By-law 7 states that 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 work stoppage.

If an agreement is reached without work stoppage, 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 a work stoppage, 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.