

# ***CUPE*** ***3906***

## UNIT 3

# **BARGAINING**

# **GUIDE**

## 2011

POST-DOCTORAL FELLOWS



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## INTRODUCTION

This guide is intended to give you the key tools to understand and to become engaged in the collective bargaining process that will determine your working conditions as a Post-Doctoral Fellow at McMaster. The process is, unfortunately, relatively complex and jargon-filled. In this document we have attempted to clarify what you can expect in the bargaining process.

- As a unionized employee you are part of a democratic organization of workers who collectively bargain for improvements to things like wages, benefits, job security and other work-related matters.
- As a democratic organization, the union relies on you personally to make yourself aware of issues and get involved. Management brings lawyers and labour relations professionals with them to the table. While we have access to legal and communications professionals through CUPE National, the decisions in bargaining are made by the elected members of the union who make up the bargaining team.
- Like any democracy, failure to be informed and to share your opinions and effort will result in the overall weakness of the bargaining process.

This guide aims to give you the tools to make our union stronger and win us a better collective agreement.

## CUPE 3906, OUR LOCAL, AT A GLANCE

Our local (the particular division of the Canadian Union of Public Employees (CUPE) for academic workers at McMaster University) is made up of a number of components:

1. Three bargaining units, one representing Teaching and Research Assistants (in lieu of a TAship) (Unit 1), a second representing Sessional Faculty and Sessional Music Faculty (Unit 2), and a third representing Postdoctoral Fellows (Unit 3)

It is absolutely crucial to understand that those rights and benefits we enjoy today are the direct result of the efforts of those members who came before us. They sacrificed their time and energy to win them. It is our responsibility to them to continue the struggle to win fair contracts for ourselves, and those who will come after us.

2. A 15-person elected executive committee which manages the day-to-day operation of the local
3. A steward's council made up of up to four volunteers (up to two of them from Unit 3) per academic department, which provides direction for the local and acts as a bridge between members and the local.
4. Two hired staff-people who assist the executive in their business and individual members in their grievances and concerns
5. A variety of member-run committees from Health & Safety to Equity and Communications
6. Monthly general membership meetings, democratic forums that are the highest decision-making body of the local
7. A set of by-laws that govern the organization
8. Membership in our National Union, the Canadian Union of Public Employees, which has over 560,000 members coast-to-coast. Membership includes the right to democratically participate in the union, access to training, the services of staff representatives, lawyers, communications professionals and researchers. Most importantly, membership means the solidarity of our fellow members across the country, who will come to our aid.



Bargaining is only one part of the work that your local does on your behalf. The local is a hub of activity, including:

- Administering the benefits that we have fought for and won in previous rounds of bargaining, including the health spending account, professional development fund, hardship fund, and more.
- Bargaining collective agreements
- Representing members in the grievance process
- Addressing issues of individual and systemic harassment and discrimination
- Providing education and training
- Representing members interests to the university and to the community at large
- Being a vehicle for political and equity activism

The following guide provides a chronological overview of the steps in the collective bargaining process.

Collective bargaining is a process where the local and management come together (typically every 1-3 years) to renegotiate the terms and rules of work as laid out in the collective agreement. The over-arching timeline, and certain groundrules for negotiations, are set out by the province in the Labour Relations Act. The order of events may not follow this list exactly, as bargaining is an unpredictable and evolving process.

To begin with, the following are the fundamental principles of CUPE 3906 in bargaining:

- **DEMOCRACY** – the strength of our union and our ability to win fair collective agreements is a reflection and product of our dedication to participatory democracy including consultation, transparency, elections and member-driven bargaining.
- **NO CONCESSIONS** – we will not concede any gain we have made in previous collective agreements, including defacto concessions like the loss of wage increases to inflation, tuition fees or insurance costs.
- **UNIVERSITY WORKERS ARE WORTH IT** – we are the backbone of the academic education system and we deserve respect and compensation.
- **SOLIDARITY** – We understand that our struggle for a better contract is intimately connected to other workers' struggles here at McMaster, in the university sector, in the public sector more generally and, ultimately, throughout Canadian and global society. This year we are part of a coordinated bargaining campaign across the university sector in Ontario. We are joined by other university locals across the province who are bargaining their collective agreements at the same time; we will stand together to ensure strong and fair collective agreements across the province. We support, and are supported by, other unions locally, provincially, nationally and internationally.

## **STEP 1: PRELIMINARY CONSULTATION & RESEARCH**

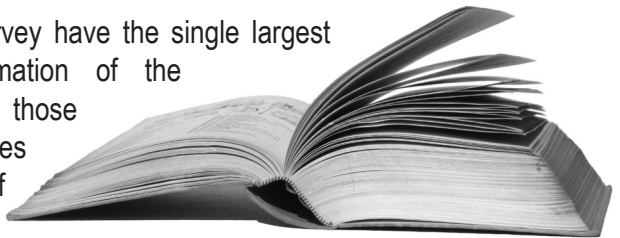
- Bargaining typically occurs once every 2-3 years; between these windows the collective agreement cannot be changed. As a result, preparing for bargaining is a high priority for the union.
- In the months preceding bargaining, the elected local executive, along with staff, begin organizing consultations with members of the bargaining unit (the group of workers whose collective agreement is coming up for renewal) about key issues.
- They also begin research by comparing our collective agreement to other similar workplaces, discussing proposals for new language in the collective agreement, looking back over past negotiations and grievances and developing strategies for bargaining.

## **STEP 2: ELECTION OF THE BARGAINING COMMITTEE & BARGAINING SUPPORT COMMITTEE**

- The bargaining committee (sometimes called the “bargaining team”) is made up of 8 members of the bargaining unit (1 of whom must be an undergrad), elected at a general membership meeting, and are assisted by staff and executive members. They are the union’s representatives at the bargaining table and develop members’ demands into the bargaining proposals the union will bring forward to negotiations.
- The bargaining support committee is made up of any interested members of the local and backs-up the bargaining committee through research, member mobilization, education and other activities.

## **STEP 3: THE BARGAINING SURVEY**

- A crucial part of the run-up to negotiations, the bargaining survey is a digital questionnaire sent to all members of the bargaining unit via email.
- The results of the survey have the single largest impact on the formation of the bargaining proposals, those things the local hopes to win in this round of bargaining.



- The survey is not intended to be an unbiased “scientific” sample but, rather, one of many tools to both inform and garner information from members.
- The bargaining survey for this round of negotiations was sent out to Unit 1 members in early March.

Some of the locations of other university-based CUPE locals in Ontario with whom we coordinate our bargaining efforts:

- University of Toronto
- University of Guelph
- York University
- Brock University
- Carleton University
- Laurentian University
- University of Ottawa
- Ryerson University
- Lakehead University
- University of Windsor



#### **STEP 4: SERVING NOTICE TO BARGAIN**

- A motion is passed at a general membership meeting instructing the local to inform management of its desire to begin the bargaining process. When this notice is sent, it initiates an official timeline of events, overseen by the provincial government.
- Once the notice is sent, the local and management arrange several bargaining dates to meet in person and negotiate.

#### **STEP 5: FORMULATION OF BARGAINING PROPOSALS**

- Having consulted the members of the bargaining unit through various means (including the bargaining survey), the bargaining committee drafts a set of priorities (i.e. general areas of concern) and bargaining proposals (i.e. proposed contract language) it will bring to the negotiating table.
- They ask members of the bargaining unit to give input and ratify these priorities and/or proposals at a general membership meeting.

## STEP 6: BARGAINING

- Bargaining is a difficult and often lengthy process where two groups with diametrically opposed interests seek a workable truce. Bargaining generally advances through subsequent meetings of the two bargaining teams over a period several months.
- The management team is made up of representatives of the University, but the people with the authority to make decisions are not at the table. By contrast, your bargaining team is made up of elected members who seek input and go-ahead from the rest of the membership at every possible juncture.
- Management legally has the right to “determine the size, composition and deployment of the workforce,” as set out in Article III of the collective agreement. This DOES NOT mean that they do not have to bargain. Management rights have to be exercised in a manner consistent with the collective agreement, and in no way impact our right to collectively bargain a contract.
- The local updates the members of the bargaining unit through regular bargaining bulletins (distributed on paper, over email and on the website) and through regular general membership meetings.
- It is crucial at this point that all members take an active interest and work to support their bargaining committee.
- If at any point in the negotiations the local’s bargaining committee feels confident in the collective agreement they have negotiated so far they may bring an offer to the members of the bargaining unit for a ratification vote.
- In certain specific cases, the employer can require that their “final offer” be put forward to the membership for a vote. Under the Labour Relations Act, the Employer is only allowed to do this once.
- A ratification vote begins with a special general membership meeting. Our bargaining committee will recommend that the offer either be accepted or rejected by the members of the bargaining unit. There will be time for questions and debate before the offer is put to a vote over several days according to the process set out in the local’s bylaws. The result is announced as soon as it is available.
- If the offer is accepted, it becomes the new collective agreement, retroactive to the date the previous agreement expired, and in effect until a mutually-agreed up expiration date as set out in the offer. If the offer is rejected, the bargaining committee goes back to negotiations.



## STEP 7: THE STRIKE VOTE

- In order for the bargaining committee to win any substantial gains in bargaining, it is essential that the members of the bargaining unit signal their support through an affirmative strike vote.
- Such a vote puts the right to call a strike, or other job action, in the hands of the elected bargaining committee. It also signals to management that they need to take our proposals seriously.
- A strike vote does not necessarily mean a vote for a strike. A strong vote gives your team the strength they need at the table to reach a deal.
- It is an unfortunate reality that workers rarely make substantial gains without the threat of job action. By giving their elected bargaining team a mandate to call a strike if it's deemed necessary, the members of the bargaining unit demonstrate their faith in the team, and their commitment to the proposals they helped create.
- The bargaining team at CUPE 3906 has always been sent to the table with a strong strike mandate.



## STEP 8: CONCILIATION/MEDIATION

- Should we be unable to negotiate a new collective agreement at the bargaining table, either party can request the assistance of a provincially-appointed conciliator. The conciliator facilitates further negotiations, acts as a go-between and helps broker a deal.
- If both sides are unable to reach a deal in conciliation, either party can ask the conciliator to file a “no board report.” The issuance of the report triggers a “cooling off period” of 17 working days (generally 21 calendar days). At the end of this period the parties are in a legal strike or lockout position.
- A few days before the strike/lockout deadline, the parties enter into mediation with a provincially-appointed mediator (often the same person who acted

as the conciliator). Mediation can continue up to, or past, the strike/lockout deadline in an effort to reach a deal.

## **STEP 9: JOB ACTION (STRIKE OR LOCKOUT)**

- If after the process of negotiations, conciliation and mediation, a deal is still not reachable, job action may be necessary.
- Striking or locked-out workers do much more than just picket; they pitch in together to make the job action a success in many ways: coordinating the strike effort, helping administer strike-pay, childcare, media work, and more.
- While on strike, or locked-out, members of CUPE 3906 are entitled to strike pay from CUPE National's multi-million dollar strike fund. The strike fund is made up of money collected from more than half a million members across the country. As a result, we never need fear "running out of money."
  - Strike pay is \$40 daily for four hours of strike-related duties to a weekly maximum of \$200. Benefits continue to be paid by the strike fund.
    - Since the pay comes from CUPE National, they determine the policy for its disbursement. The policy can be found at <http://cupe.ca/strikepay>
    - In order to be fair to all members, CUPE National Strike Pay is only available after the first 10 days of a strike. This time period is covered by the local strike fund as explained in the next point
  - The local ensures that no-one feels the brunt of financial hardship as a result of the 10 day rule outlined above. As such, the local has its own strike fund with hundreds of thousands of dollars in it. This fund allows us to cover strike-pay expenses during the first 10 days of a strike so that no member has to go without groceries, rent, medicine or other necessities.
- While a strike is by far the most effective and quickest way to get a decent collective agreement, other forms of job action are open to the bargaining committee to call for. These can include rotating strikes where workers refuse to work on certain days or in certain departments. Another type of job action is a work to rule campaign where workers do only the absolute minimum work required of them under the collective agreement. All types of job action are means of putting pressure on the employer by demonstrating how important our labour is to the functioning of the University.

It is important to make clear the distinction between a strike and a lockout.

- A lockout happens when management refuses to allow workers to work as punishment for their refusal to accept a bad offer. In some workplaces, workers are actually “locked out” of the building. Here at McMaster, we have been assured in the past that, should the employer lock us out (or should we go on strike), members will still have access to buildings, although we would be prohibited from performing our regular paid duties. A lockout ends when the employer either forces the local to accept the offer or when the local demonstrates they will not accept it and management backs down.
- A strike, on the other hand, is a collective action taken by all workers in a bargaining unit to put pressure on management by withdrawing some or all of their services. A strike, or the threat of a strike, is an effective way to put pressure on management to take our concerns seriously. In this case, sessional faculty and sessional music faculty would cease all course instruction, marking and other administrative duties. A strike usually lasts until the members ratify an offer.

- A strike generally ends when the parties reach a settlement at the bargaining table that is ratified by the membership using the process outlined in Step 6.

## GLOSSARY

- **Bargaining Bulletins** – A newsletter sent to members of the bargaining unit during negotiations to keep them up-to-date about the process of bargaining. Bulletins are distributed in paper format, over email and on the local website.
- **Bargaining Committee (or Bargaining Team)** – Both the Local and the Employer have Bargaining Committees. The University appoints theirs, while the Union’s team is elected by the membership at a General Membership Meeting.
- **Bargaining Support Committee** – A committee made up of members of the Local who assist the Bargaining Committee through research, member mobilization, education and more. Members of the Bargaining Support Committee do not sit at the table for negotiations. If you are interested in joining the Bargaining Support Committee, email [support@cupe3906.org](mailto:support@cupe3906.org) or call the office at ext. 24003.

- **Bargaining Survey** - A questionnaire sent out by the local to all members of the bargaining unit to assist in the drafting of bargaining proposals. It is not an unbiased “scientific” survey, but rather aims to both inform and garner information from members.
- **Bargaining Unit** – Our local is split into three bargaining units, each with their own collective agreement:
  - **Unit 1** – Teaching and Research Assistants (in lieu of a TAship)
  - **Unit 2** – Sessional Faculty & Sessional Music Faculty
  - **Unit 3** – Postdoctoral Fellows
- **Collective Agreement** – A legally-binding agreement bargained between unionized employees and their employer setting out the terms and conditions of their employment. Your agreement sets out your wage rate; contains mechanisms to compensate you for overwork; provides the funds that make your union-run benefits plans possible, and much more.

Often referred to as “the contract,” a collective agreement also sets out a mechanism for resolving disputes over the life of the collective agreement. The agreement “comes open” typically every 2-3 years, and cannot be changed outside of this window.

- **Conciliator/Conciliation** – A stage of bargaining in which a conciliator appointed by the province is asked to help the parties reach an agreement.
- **Cooling-Off Period** – A period of 17 working days (generally 21 calendar days) following a No-Board Report before which a strike or lockout can occur.
- **Employer** – See Management
- **General Membership Meeting**
  - A democratic forum for members of the CUPE 3906 and the highest decision-making body for the local.
- **Local** – The National union (CUPE) is split up by workplace into locals that are democratic units of workers within a



given workplace or sharing a given employer. We are Local number 3906 of CUPE, representing three bargaining units of academic workers at McMaster University.

- **Lockout** – When Management refuses to allow workers to work as punishment for their refusal to accept a bad offer in bargaining.
- **Management** - Management refers to those who are part of the Employer, McMaster University, charged with overseeing labour-relations. This can refer to employment supervisors, chairs, deans, senior administration, as well as the Employee and Labour Relations Department.
- **Mediation** – The stage in the process immediately preceding the strike/lockout deadline set out by the No-Board Report. In Mediation a provincially-appointed mediator (often the same person who acted as the conciliator) attempts to bring the parties together to reach a deal.
- **No-Board Report** - A report filed by the conciliator if the process of conciliation fails. It triggers a 17 working day (generally 21 calendar day) cooling-off period before a strike/lockout deadline.
- **Ontario Labour Relations Act** – The provincial legislation that governs the process of bargaining, as well as other rules governing unions and the administration of collective agreements.
- **Ratification Vote** – When the bargaining committee feels it has reached an agreement with management that it can bring back to the members it calls a special general membership meeting to discuss and initiate a ratification vote that takes place over two days. If the ratification vote is affirmative, the new collective agreement comes into effect. If the members turn down the agreement the bargaining committee goes back to the table. Under the Labour Relations Act, the Employer can force a vote of the members on their “final offer;” however, they can only do so once.
- **Solidarity** – The fundamental principle of trade-unionism best exemplified by the slogan “an injury to one is an injury to all.” In practice this means that all members of the union-movement agree to help one another in their struggles for fair wages, safe workplaces, better benefits and other workers’ and human rights. It also extends beyond the union-movement to other groups struggling for human rights and social justice.

- **Special General Membership Meeting** – A general membership meeting called for a specific purpose, and only that purpose. Typically for a presentation and debate preceding a ratification vote.
- **Strike Pay** – Financial assistance provided to striking or locked-out workers through our union. Strike pay is \$40 daily for four hours of strike-related duties to a weekly maximum of \$200. Strike pay begins on the 10<sup>th</sup> day of a strike or lockout.
- **Strike** – A collective action taken by all workers in a bargaining unit to put pressure on the employer to take their concerns seriously by withdrawing all or some of their services.
- **Strike Vote** – A crucial tool for successful bargaining, an affirmative vote puts the right to call a strike (or other job action) in the hands of the elected bargaining committee. It sends a clear message to management that the members stand behind the bargaining team and the proposals the union has put forward. An affirmative strike vote does not necessarily mean that there will be a strike, simply that the bargaining team has the authorization to call one if needed. Strike votes almost never fail, and have never failed in CUPE 3906 history.
- **Union** – Refers to the Canadian Union of Public Employees as a whole. CUPE represents over 600,000 public sector workers coast-to-coast, is Canada’s largest union, and has sectors that include municipalities, school boards, health care, social services and universities. We are local number 3906 of CUPE, representing academic workers at McMaster University. As members of the National Union, our local helps elect officials and is served by staff representatives, and departments such as communications, research, education and more. CUPE prides itself on its commitment to union democracy and the autonomy of its locals.
- **Union Member** – All bargaining unit members are members of the union. Unlike other unions, where individuals have to swear an oath to “join the union,” in CUPE you are automatically a union member by virtue of your employment as a member of the bargaining unit.

CUPE Local 3906, and especially its member-run Equity Action Committee, is committed to fighting discrimination by defending our members and running public education campaigns, training and other activism.

For more information about the Equity Action Committee email the Equity Officer at [equity@cupe3906.org](mailto:equity@cupe3906.org)

## NOTES

## **HOW CAN YOU SUPPORT BARGAINING?**

- Join the Bargaining Committee, or Bargaining Support Committee – email [bargaining@cupe3906.org](mailto:bargaining@cupe3906.org), drop by the local office or call ext 24003 for more information.
- Inform yourself about the issues.
- Talk to your colleagues about bargaining and ways that they can help support the process.
- Keep your eyes open for call-outs about rallies, flyering and other actions.

## **CONTACT CUPE 3906**

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