

Professional Employees Association Collective Bargaining Guide



Our Mission

The Professional Employees Association is a union of professionals dedicated to fair and equitable working conditions for its members.

We do this through collective bargaining and advocacy, member engagement and education, and promotion of the value of professionals.

We believe in integrity, in respectful relationships, and in enlightened, innovative principles of labour relations.

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Introduction

Collective bargaining is a process used by employers and unions to arrive at an agreement regarding terms and conditions of employment. The Professional Employees Association (PEA) is the exclusive bargaining agent for its members. This means that individuals cannot negotiate their own contracts. Instead, the union negotiates as a collective on behalf of all members. The Association acquired this right because a majority of the employees in the unit voted to be represented by the PEA.

Unless there is language in a collective agreement or a law that states otherwise, management has the power to enforce its own workplace rules and policies. It is through collective bargaining that unions achieve rights and benefits.

Fundamentally, collective bargaining is an exercise of power. Persuasive arguments, thorough research and capable negotiators are important factors that lead to good collective agreements; however, a determined and unified membership that is willing to engage in job action is the most significant factor in achieving gains in bargaining.

This guide is designed to introduce members to the collective bargaining process. Additionally, the PEA has created a variety of tools to keep you informed about bargaining. You can find out more about these tools in the Stay Connected, Stay Informed section of the guide starting on page 15.



Pre-Bargaining

Pre-Bargaining

Preparing for bargaining is a high priority for the PEA. During this time the association is gathering information, forming Bargaining Committees and increasing engagement materials to ensure that the membership is ready to approach bargaining in an informed manner.

Step 1: Research

The PEA conducts research relating to bargaining on an ongoing basis. This includes gathering information on collective agreements in similar workplaces, market based compensation and other union bargaining in the province. In addition, the PEA researches economic indicators including unemployment, consumer price index, the economy, the employer's financial outlook and the political climate. This research is an important step towards understanding the necessary strategy for collective bargaining.

Members can stay informed of important bargaining metrics on the PEA website at pea.org/collectivebargaining. Here we will provide information on consumer price index,

unemployment, financial outlook, other relevant collective agreements and more.

Step 2: Bargaining Committee

A Bargaining Committee is elected or appointed at the outset of the bargaining process. The Bargaining Committee is struck anywhere from six to nine months prior to the expiration of the current collective agreement. On occasion a Bargaining Support Committee is elected. This is a standing committee that is designed to provide continuity between bargaining sessions. They assist in research, member mobilization and education. They provide background to the current Bargaining Committee about the successes and challenges of previous bargaining sessions and members' priorities. Once bargaining commences they transition to a support role where they are required to assist the Bargaining Committee where necessary.

Step 3: Consultation and Bargaining Survey

The bargaining survey is a crucial element of bargaining preparation. A digital questionnaire is distributed to all members via email. The

results of this survey have the largest impact on the formulation of bargaining proposals (proposed contract language). The survey is designed as a tool, in conjunction with other feedback, to inform the Bargaining Committee.

Other forms of consultation are undertaken on an as needed basis. Membership meetings may be held to discuss bargaining preparations to date and priorities identified by the Bargaining Committee. Ongoing consultation is facilitated on the PEA's website, in a secure online forum. This tool provides members with the opportunity to discuss their concerns and questions surrounding bargaining with other members and PEA staff.

Step 4: Proposals

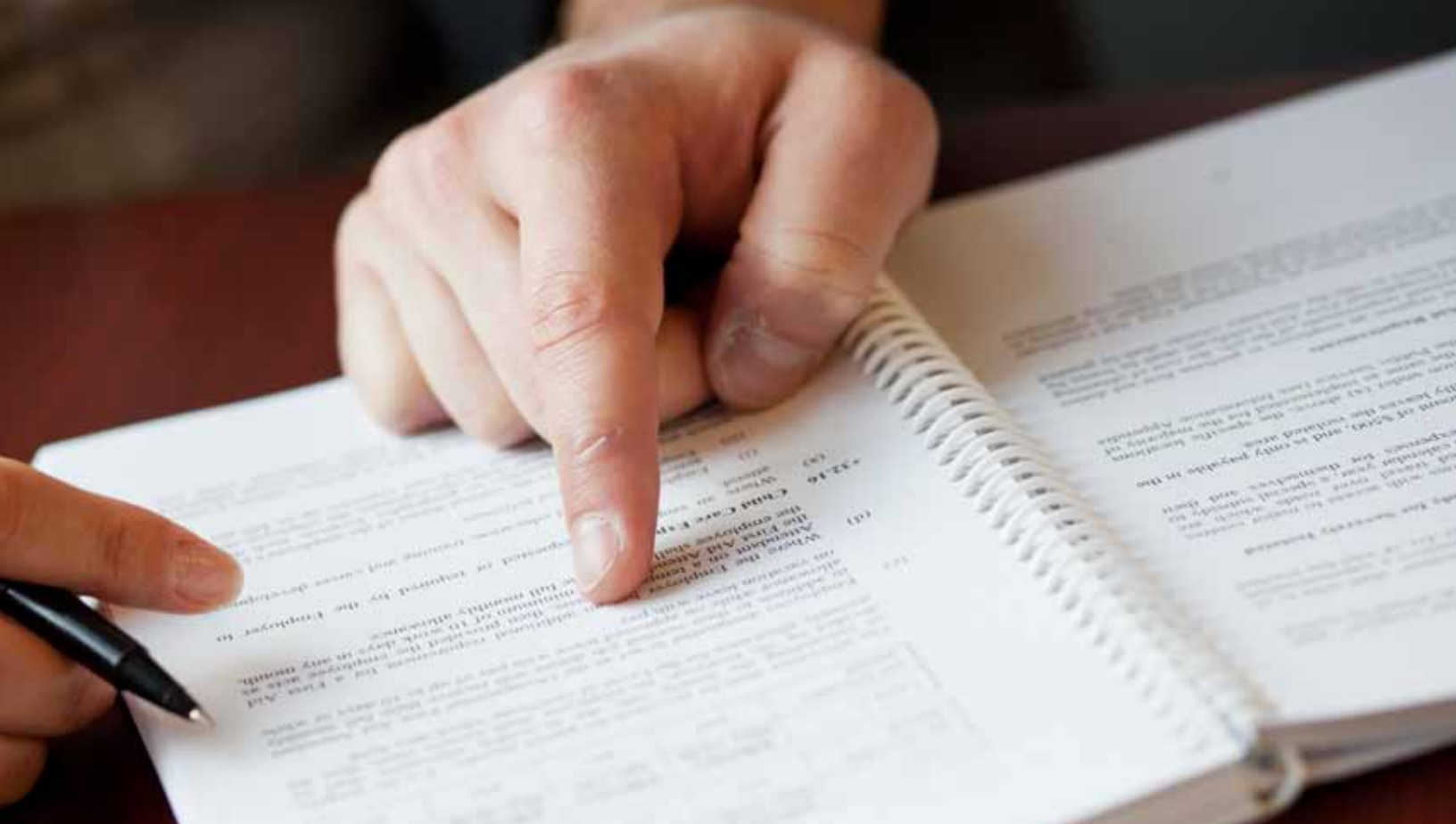
Proposals represent the ideal language that a party wants to achieve in their next collective agreement. The union arrives at its proposals in a variety of ways. Past grievances and prior collective agreement proposals are reviewed. Suggestions or recommendations from members throughout the term of the current collective agreement are tracked by the Labour Relations Officer and presented to the Bargaining Committee. In addition, pro-

posals are accepted from members. This input plus the bargaining survey constitute the data that the bargaining committee uses to draft a set of priorities and bargaining proposals that it will bring to the table. A summary of the proposals will be presented to the membership in a timely manner so that revisions can be made as needed.

The Bargaining Committee may receive proposals from members that are contradictory. Not all proposals submitted by members will be put forward at the bargaining table. It is the responsibility of the bargaining committee to develop proposals that consider the collective interests of the members.

Step 5: Serving Notice to Bargain

The employer or the PEA may serve notice to bargain at any time within four months of the expiry of the collective agreement. Once the notice is sent, the PEA and management set a series of dates to exchange proposals and begin negotiations.



Bargaining

Bargaining

Bargaining generally advances through a series of meetings. The process can be quick or it can take years to reach an agreement. Proposals are the basis for negotiations. Each side has an opportunity to present and make arguments for their proposals. In some cases proposals may lead to counter proposals by the other party. It is not unusual for proposals to go back and forth across the table until a mutual agreement is made on the language. At any time one of the parties may withdraw their proposal. New proposals may not be introduced unless there is mutual agreement of the parties. The PEA's staff are responsible for acting as the lead spokesperson at the bargaining table.

During bargaining the employer may table concessions. A concession is a proposal that takes away a previously negotiated term that was of benefit to the union (e.g., a ten percent wage roll back, a reduction in vacation days, etc.). The PEA will update the members of the bargaining unit about the progress of negotiations through regular bargaining bulletins. These are distributed through the PEA website and via email. In addition to bargaining bulletins, general membership

meetings may be held to inform and update members.

What happens if bargaining doesn't progress?

Mediation

Often during collective bargaining an impasse is reached between the two sides. An impasse means that the desired outcomes have not been achieved. In the event that collective bargaining reaches an impasse, either party may request the assistance of a mediator from the BC Labour Relations Board. A mediator's role is to promote objectivity and compromise, moving the parties away from their polarized positions. The mediator can make recommendations but does not have the authority to force a settlement. The mediation process may occur with the bargaining teams in the same room or they may be separated with the mediator going from one room to the other. If the mediation is not moving towards a settlement, either side can end the mediation process by asking the mediator to book out.

Strike Vote

In order to gain more power at the bargaining table, the committee may recommend that the membership take a strike vote. Where possible a membership meeting will be held to discuss the reasons for this action.

Strike votes may occur only after the expiration of a collective agreement. It is important that a strike vote has a strong majority of members supporting it. A high percentage of members voting in favour of a strike signals to the employer that members are willing to support their bargaining team in achieving their desired outcomes.

The terms and conditions of an expired collective agreement remain in effect until a new collective agreement is reached.

The union may take job action up to three months following a positive strike vote, after having served 72 hours notice to the employer. Often a strike vote from the membership is enough to ensure a bargaining stalemate is broken and a tentative agreement better reflecting a union's priorities is reached. The PEA has taken many strike votes including 1979, 1981, 1989, 1993, 1999, 2001, 2006,

2007 and 2011. Only once has the strike vote led to a strike; in all other situations the strike votes provided enough leverage to encourage an acceptable offer at the bargaining table.

Job Action (Strike or Lockout)

If the strike vote does not provide enough leverage for an agreement to be reached between the employer and the PEA, the bargaining committee may determine a strike is needed. There are many kinds of job action which would be considered a strike under the labour relations code. A couple examples are a refusal to work overtime and working to rule. Working to rule is a form of job action where employees follow the strict terms and conditions of their contract.

A strike is the withholding of labour by workers to place pressure on the employer with the aim of encouraging agreement in bargaining. The right to strike is established by law; therefore, any employee who is participating in a lawful strike cannot be disciplined by the employer for doing so. If a strike occurs in a chapter or union other than your own, you will be expected to show support but you will not be required to strike with them.



A lockout can be regarded as a strike by the employer. A lockout occurs when the employer decides to stop workers from working, thus applying economic pressure on you and your co-workers in an attempt to persuade you to give in to the employer's demands.

A full strike occurs when all members of the bargaining unit stop working. A strike can also include a slowdown or other concerted activity on the part of employees designed to restrict or limit production or services. There are strategic and tactical decisions regarding strikes. For example, in some workplaces a full strike might be appropriate. In other

workplaces, a rotating strike might make more sense. In the case of a rotating strike, different worksites (e.g., different buildings at UVic) could be targeted on a rotating basis. A strike will only be effective if it is well planned. It is the responsibility of the Association and Chapter Executives, staff, and members to see that strike preparations are ready when the strike deadline occurs. **Creating community and public support must be factored into the overall strategy and planned well in advance of the commencement of the strike.**

In the event of a strike, the Association Executive will ask all members of that chapter to participate. The amount of work involved in a successful strike should not be underestimated.

The strength of a picket line determines the effectiveness of the job action. Members that do not support the strike are asked to stay away from work; they will not receive strike pay.

Strike & Lockout Pay

The PEA constitution identifies PEA strike pay as a salary reimbursement up to 70% of lost earnings to a maximum of \$125 per day including benefits. This formula also applies to members who lose earnings as a result of being locked out or honouring another union's picket line. You must work on the picket line or perform other strike related duties in order to be eligible for strike or lockout pay.

Prepare financially: If there is the possibility of a strike or lockout in your future, it is vital that you budget accordingly and plan your personal finances and obligations. Most financial institutions will help you put together a plan to deal with your individual situation should strike action occur.

Your employer will be required to pay you your earnings up to the date the strike commences on the next normal pay day.

Probation, benefits, long term disability, leaves of absence, illness and vacation during a strike or lockout

Benefits: Under Labour Relations Code, employers must continue to provide benefits as long as the union will pay employee premiums. If benefits were continued, the union would deduct the costs from member's strike pay.

Vacations: Individual situations where vacations were pre scheduled will be dealt with on a case by case basis.

Maternity Leave: You will continue to receive your benefits from Employment Insurance (EI) if you are on maternity leave during a strike. You may still sign up for picket duty and collect strike pay; however, be aware that this may affect your EI pay.

Members on WCB, EI, STD or LTD: If a member is on a leave when the strike



commences (e.g. sick leave, vacation leave, Workers' Compensation leave, long term disability leave or other approved leave), the leave continues for its duration.

Illness: Members who are not able to picket because of medical concerns are asked to contact the PEA office as there may be other duties that can be performed.

Probation: If you are on probation during a strike, your probationary may be extended for the length of the strike.

Respecting other union picket lines

The PEA will ask members to respect other union picket lines. The practice of the Association is to extend to other unions the same treatment it would expect to receive if the PEA were involved in a strike. PEA collective agreements typically contain a provision entitling members to respect picket lines, so members do not need to be concerned about disciplinary action from their employer. Members will receive strike pay if they respect other union's picket lines and lose income.



Ratification



Ratification

A tentative settlement can occur either at the bargaining table, in mediation or following a strike or lockout. If at any point in the negotiations the chapter's bargaining committee feels confident in the collective agreement they have negotiated, they may bring an offer to the members of the bargaining unit for a ratification vote. The PEA by-laws require that negotiated settlements be submitted to members for ratification on the recommendation of the bargaining committee. A formal summary of the settlement will follow with a ballot package for a vote. The bargaining committee will recommend that the offer either be accepted or rejected by the members of the bargaining unit. The result of the ratification vote is announced as soon as it is available.

If both management and the union ratify the collective agreement, the tentative agreement becomes enforceable. Retroactivity of monetary gains needs to be negotiated as it is not automatic. The new agreement is in effect until a mutually-agreed on expiration date.

If members vote to reject the settlement, then the bargaining committee will meet to consider its options. Normally, the only way to improve on a settlement that has been rejected is to seek a strike mandate from members. If a strike vote has not yet been conducted, the bargaining committee will ask members to vote in favour of going on strike in order to leverage improvements from the employer. If a strike vote was conducted prior to the settlement being reached, the bargaining committee may act on that mandate and organize job action with the assistance of the Association.



Stay Informed, Stay Connected



Stay Informed, Stay Connected

The PEA represents members in different chapters across the province. Staying connected and informed is a high priority for the Association and we do so in a variety of ways.

Throughout the bargaining process, the PEA will offer members an opportunity to discuss bargaining through member meetings (in person and online), Bargaining Bulletins and more. Our focus is to provide a wide range of options for membership engagement to take place.

Keep us informed

The best way to stay informed and connected to the PEA is to ensure that your contact

information is up to date. All members can review their contact information through their online profile at pea.org. Log in to the website using either your username or email address and review your contact information under the 'My Account' tab. If there is missing information please update it to stay informed.

Bargaining information is confidential and bargaining updates will not be sent to an employer's email address. Make sure that you provide the PEA with a home email address and cell phone number. These are important so that the PEA can keep in touch in the event of job action.

The PEA Website and Forums

The PEA website, pea.org, is the main location for bargaining news. Members will find a

record of Bargaining Bulletins and other pertinent information online. In addition, members can access a wide range of bargaining data and information, including statistics, trends, news, and pertinent collective agreements from other organizations. Members can find this information online at pea.org/collectivebargaining.

The PEA has an online forum that allows members of each chapter to engage with each other about bargaining.



The PEA forum is a secured location for members to discuss a wide range of issues from pensions to collective bargaining. The forums compliment other initiatives such

as meetings and surveys to gather input on bargaining.

Each member can access the PEA Forum and their Chapter Forum by logging into the website. The PEA Forum is intended to capture issues that apply to all PEA members. The Chapter Forum is for chapter specific issues including collective bargaining proposals. Members who are having trouble logging in, or require a username can contact the PEA office.

The forums are open. Members can create new topics or reply to existing posts.

Members can stay engaged in the conversation by subscribing to the forum or topic. On the main page of both forums is the 'Subscribe to Forum' option. This allows you to stay informed when members update the forum. You will receive a digest of all updates in the forum that day. Members can also subscribe to individual topics within each forum. The 'Subscribe to Topic' button is at the top of each page.

An online video outlining how the PEA Forum works is available for members looking for additional assistance. You can find the video online at pea.org/gettingstarted

The Professional



The PEA's magazine, *The Professional*, is also a great place to find out the most recent and important news about collective bargaining. The

publication is delivered to all members quarterly. Members wishing to do so can sign up to receive an email copy by logging on to the PEA's website and clicking on 'My Account'.

grammatically singular and denotes
number of individuals (e.g. assembly, f
collectively *adv.* **collectiveness** *n.*
collective agreement *n.* an agree
union and employer reached b
collective bargaining *n.* the
etc. for all members of a b
negotiated between the
ive memory *n.*

Glossary

Glossary of Terms:

Often there are terms that come up in Bargaining or in Collective Agreements that need clarification. We have included the most common terms to help you navigate the Collective Bargaining process. These definitions and more are available in the PEA's Labour Dictionary, online at pea.org/labourdictionary.

Arbitration: the adjudication of a dispute, by an impartial third party, normally but not always, chosen by the parties themselves; In some cases, arbitrators are appointed by the government or a government agency.

Bargaining Agent: a trade union certified by the board as an agent to bargain collectively for an appropriate bargaining unit.

Boycott: the refusal to do business with, or to purchase, handle or use the products of an employer in order to obtain concessions or to protest against certain acts or practices.

Cease and Desist: an order of a court or administrative tribunal, such as a labour board, requiring a party to refrain from a particular course of conduct.

Checkoff: a clause in a collective agreement authorizing an employer to deduct unions dues and, sometimes, other assessments, and transmit these

funds to the union.

Collective Agreement: a written agreement between an employer, or an employers' organization authorized by the employer, and a union, providing for rates of pay, hours of work or other conditions of employment.

Collective Bargaining: a process whereby a union and employer seek to negotiate a collective agreement, or the renewal or revision of an existing collective agreement; labour relations legislation generally requires the parties to bargain in good faith with a view to concluding a collective agreement.

Dispute: a difference or apprehended difference between an employer or group of employers, and one or more of his or her or their employees or a union, as to matters or things affecting or relating to terms or conditions of employment or work done or to be done.

Essential Services: services in the public sector which are considered to be essential because of their importance to the safety and health of the public; in some jurisdictions certain employees may be designated as essential so that they are required to continue work in the event of a strike, while in other jurisdictions all employees in services considered to be essential may be deprived of the right to strike and subject to compulsory arbitration.

Estoppel: principle of law preventing a party from insisting on its strict legal rights where by its words or conduct it has represented that it would not do so and another party has changed its position to its disadvantage or detriment in reliance upon that representation; for example, an employer, who has paid benefits without insisting on a waiting period in the collective agreement, may be stopped from subsequently altering such a practice before renegotiating the agreement.

Exclusion from Bargaining: position excluded by the parties or a labour board from the bargaining unit described in a certificate or collective agreement because, for example, the incumbent exercises managerial functions or does not share a community of interest with employees in the bargaining unit.

Final Offer Vote: statutory procedures whereby a vote is ordered to be held among employees in the bargaining unit, for the purpose of determining acceptance or rejection of the employer's last offer.

Fringe Benefits: non-wage benefits, such as paid vacations, pensions, health and welfare provisions, life insurance, etc., the cost of which is borne in whole or part by the employer.

Flying Squad: floaters, runners, extra bodies available to supply pickets in a hurry should the need arise.

Grievance: claim or complaint involving the interpretation, application or alleged violation of a collective agreement; individual grievance: grievance relating to an individual employee; group grievance: grievance relating to a group of employees similarly affected by the employer's action; policy grievance: grievance by a union which may involve a matter of general policy or of general application of the collective agreement; union grievance: sometimes used interchangeably with policy grievance, but also referring specifically to a grievance directly affecting the union, such as a failure to remit union dues. Employer's may also file grievances.

Illegal Strike: strike prohibited by collective agreement or statute, such as a strike prior to certification or during the term of a collective agreement. It is the Labour Relations Board that determines the legality of a strike.

Impasse: deadlock in negotiations; negotiating to impasse involves negotiating to the point at which neither party will make further concessions with respect to an issue that may be the subject of a strike or lockout.

Labour Relations Board: a board established under provincial or federal

labour relations legislation to administer labour law, including certification of trade unions as bargaining agents, investigation of unfair labour practices and other functions prescribed under the legislation.

Lockout: the closing of a place of employment, a suspension of work or a refusal by an employer to continue to employ a number of his or her employees, done to compel his or her employees or to aid another employer to compel his or her employees to agree to conditions of employment.

Mediation: process by which a third party attempts to assist labour and management in reaching a voluntary resolution of a labour dispute; may involve the negotiation of a collective agreement or the settlement of a grievance.

Negotiating history: history of collective bargaining between parties to a collective agreement; includes previous collective agreements, negotiating proposals, statements made during bargaining; admissible for arbitration for the purpose of resolving an ambiguity in a collective agreement or of supporting an argument based upon estoppel.

Picketing: patrolling at the entrance of an employer's business by members of a union who carry signs or distribute

leaflets in order to publicize a labour dispute with a view ordinarily to persuading employees, suppliers and customers not to work for or deal with the employer; informational picketing is picketing done solely for the purpose of communicating information regarding the existence of a labour dispute.

Professional Strike Breakers: persons not directly involved in a labour dispute whose primary object is to interfere with or disrupt a lawful strike.

Retroactive Pay: a term used to refer to an amount due to employees when a collective agreement provides for a wage increase effective on a date prior to the time the agreement is entered into.

Slowdown: a concerted reduction of output by employees (falls within the definition of a strike).

Strike: concerted refusal to work or cessation of work, or slowdown or other concerted activity by employees that is designed to restrict or limit production or services.

Strike Vote: vote among all employees in the bargaining unit to determine whether they wish to strike.



This booklet is intended as a general guide for members of the Professional Employees Association. While the PEA takes every effort to ensure the information presented is corrected, policies may change or be modified. Please refer to communications from the Association for the most up to date information on collective bargaining.



Professional Employees Association

A union of professionals making a difference in BC

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