

Conciliation : Frequently asked Questions

What Is Conciliation

Conciliation is the process of intervention in collective bargaining by a neutral third party knowledgeable in effective negotiation procedures. This third party is called a "Conciliator." This person helps employers and trade unions reach a collective agreement, but has no authority to make decisions.

Some parties successfully negotiate collective agreements without the use of a third party. However, the labour statutes in this province recognize that this is not always possible. Consequently, the Department of Labour and Advanced Education provides the necessary assistance to resolve collective agreements through access to Conciliators.

The Trade Union Act and the Teachers' Collective Bargaining Act require the parties to meet with a Conciliator to try and resolve their contract dispute before they can legally strike or lock out.

What Does Conciliation Mean For Me:

For the members of CUPE Local 5047, it means we go about our regular business. We go to work as normal, and perform all our required duties. The Negotiating team, along with your National Rep(s) will be engaging in the Conciliation process, and will provide updates on the process when possible. Your work, your pay and your benefits will not be affected. **This is a positive step in the Bargaining Process.**

How And When Is A Conciliator Appointed?

Conciliators are appointed by the Minister of Labour and Advanced Education (or a delegate) at the written request of one or both parties to collective bargaining when negotiations have broken down.

If either the employer or the union requests the appointment of a Conciliator, or if the parties jointly request the appointment, the application is processed as soon as reasonably possible and both parties are advised of the appointment in writing. The Conciliator then contacts the spokespersons for the parties by telephone to arrange the time and place of meetings.

What is the purpose of conciliation and what are the benefits?

Conciliation provides an impartial third party to assist employers and unions in reaching mutually agreeable solutions to outstanding issues. The Conciliator has a great deal of experience helping parties find acceptable solutions, but does not have the power to impose a settlement.

Conciliation is an opportunity for the parties to revisit the outstanding issues in a new or different forum. With the help of the Conciliator's knowledge and experience, the parties will be expected to explore alternative solutions.

How is conciliation conducted?

At the appointed start time, the Conciliator meets both parties in the main hearing room, introductions are made, and a sign-in sheet is circulated. The Conciliator outlines the process in detail. This includes what the parties can expect from the Conciliator and what he/she expects from them. The parties are given an opportunity to ask questions relating to the process. The chief spokespersons are asked to summarize all of the outstanding issues. The Conciliator will request details later, as required. The Conciliator expects to be provided with copies of the outstanding issues together with a copy of the current collective agreement (if applicable).

When the Conciliator is comfortable that the parties and he/she understand the issues, the Conciliator sends one party to a break-off room. The Conciliator then meets with each party separately. This is an opportunity for the Conciliator to get the initial details and each party's view about the outstanding issues. The Conciliator may ask each committee to consider solutions that may differ from their stated position. This is the time when the parties are asked "to think outside the box." The Conciliator continues the process by moving between the two committees. At any time during the conciliation process, however, either party is free to suggest a face-to-face meeting. The Conciliator decides which approach will best move the process forward, i.e. separate caucus sessions with or without the Conciliator being present, face-to-face meetings, or a combination of both.

The Conciliator will pressure both committees to find a solution; however, it must always be a solution that is acceptable to both parties. The Conciliator may appear to be on the other side, but he/she is just ensuring that each party fully understands and discusses the position taken by the opposite party. The Conciliator is an impartial third party who has nothing to gain from the outcome of the negotiations between the parties; therefore, the pressure exerted is purely in the interests of both parties reaching a collective agreement. It is the parties' collective agreement, and they decide what is acceptable. The Conciliator does not negotiate for them.

What does conciliation cost?

The Conciliator and the meeting rooms are provided by the provincial government at no cost to the parties. All other costs related to conciliation (including photocopies, faxes, phone calls, transportation, parking, wage loss, meals, and accommodation) are the responsibility of each party.

Who participates?

The Trade Union Act and the Teachers' Collective Bargaining Act require the parties to complete conciliation and certain other procedural requirements as outlined in the legislation prior to participating in a strike or lockout.

What is the conciliator's role?

The Conciliator assists the parties in resolving their outstanding issues and promotes a climate of non-adversarial dispute resolution. They ensure that the process is managed fairly and that each party has every opportunity to express their point of view. They will make every effort to keep the discussion focused on the issues, including suggesting ideas/options for the parties' consideration, but will they not attempt to impose any settlement. The parties have a duty to make every reasonable effort to conclude a collective agreement.

What happens if an agreement is reached?

The Conciliator reviews and confirms the agreed items. The parties prepare a written Memorandum of Settlement, with the assistance of the Conciliator if necessary. This document includes each agreed item. The Conciliator reviews the commitment made by the parties as contained in the Memorandum of Settlement, and each committee member signs the document.

What happens if an agreement is not reached?

If the Conciliator determines that an agreement will not be reached, he/she declares an impasse. The law then requires the Conciliator to file a confidential report with the Minister of Labour and Advanced Education.