

BUILD BACK BETTER THROUGH BARGAINING

UNIFOR'S RECOVERY-BASED COLLECTIVE BARGAINING PROGRAM

July 2021

Unifor Recovery-Based Collective Bargaining Program Steering Committee Members

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CONTENTS

INTRODUCTION.....	3
PAY PREMIUMS AND PAY PROTECTION.....	5
JOB SECURITY	7
HEALTH & SAFETY SUPPORTS	9
RACIAL JUSTICE AND WORKPLACE EQUITY.....	10
WORKING FROM HOME	12

INTRODUCTION

An Extraordinary Crisis for Workers

The COVID-19 pandemic is having an extraordinary effect on the lives of working people in Canada.

In some cases, government-mandated restrictions forced workplace shutdowns and unemployment. In others, rising demand for critical goods and services resulted in work intensification.

The lack of government and employer preparedness to deal with a crisis of such magnitude is apparent. Employers who, for years, failed to establish meaningful health and safety protocols, procedures and care supports put workers – and their loved ones – at significant risk of contracting the virus. Precarious and low-wage workers, including those in marginalized communities, bore the brunt of this neglect.

Relentless pressure by the business community to deny workers access to paid sick days, health benefits, and decent wages along with flexible work schedules to support care needs made the crisis worse than it needed to be. Governments that underestimated the virus and delayed action cost both jobs and lives. The fallout of COVID-19 continues to affect the most vulnerable communities, raising concerns of an unequal recovery.

This crisis has taken an unprecedented physical, financial and emotional toll on workers, including tens of thousands of Unifor members. In the face of adversity, the union leaned on its collective power to guide us through.

Where employers failed to act, union representatives exercised contractual rights to protect members wherever possible. Unifor leveraged its strength through bargaining to secure gains, improve working standards and navigate the crisis, while appreciating that the union is not immune to its devastating effects.

Unifor’s National Collective Bargaining Program

Members rely on their elected negotiating committees and staff to secure meaningful improvements to their working conditions at the bargaining table.

Through Unifor’s national [Collective Bargaining Program](#) – updated every three years at Convention – the union establishes a set of core bargaining priorities on a range of topics that negotiators must consider at the onset of talks with employers.

Of course, each Unifor workplace has its own unique set of challenges. Therefore, Unifor members will establish bargaining priorities and strategies based on their own circumstances, local economies and sector-specific standards.

The Collective Bargaining Program does not attempt to consider all bargaining possibilities, nor does it circumvent the democratic decision-making of local committees. What underlies the Collective Bargaining Program is a desire to make steady, incremental gains in each round of negotiations, including in areas that support broad, inclusive and socially progressive goals.

The Program is a measuring stick for Unifor's success, and has proven effective over many years in securing critical contract language on matters of union education, wage standards for low-wage workers and equity.

However, over the past 15 months, new challenges arose for workers not contemplated in the current Collective Bargaining Program. In fact, the pandemic highlighted strengths and exposed gaps in many Unifor collective agreements – gaps that need addressing.

Build Back Better through Bargaining

Bargaining in times of crisis is never easy. At the same time, during periods of crisis, collective bargaining is never more essential.

At various points during the pandemic, our union fended off employer attempts to overhaul contract provisions, impose two-tier provisions and deny workers' health benefits.

Disputes arose on matters of job-protected leaves and recall rights.

New methods of work, including working from home, tested long-established workplace health and safety rules and protocols.

Some employers introduced pay premiums, and then stole them away arbitrarily, leaving workers with no recourse to grieve.

Mental health supports and family assistance programs were in desperate demand.

Against the backdrop of this pandemic, the past year also witnessed massive worker and community-led mobilizations against racial injustice and systemic inequity. This struggle created space for new opportunities for unions to advance racial justice matters at the bargaining table.

In many cases, the union succeeded in advancing workers' rights through strategic and focused efforts across hundreds of rounds of bargaining – breaking ground on new contract provisions that will benefit workers for years to come. Following public health guidance, our union also developed new and creative capacities to run virtual bargaining sessions and organize online membership ratification votes, preserving the democratic integrity of the bargaining process.

In other cases, employers took hardline positions resulting in complex grievances as well as labour disputes.

Unifor's experience in bargaining during this pandemic varies. With vaccination efforts accelerating across Canada, members look forward to brighter days ahead. Lead by our [Build Back Better road map](#), released in June 2020, Unifor is actively fighting for an economic recovery program and policies that are progressive, resilient, inclusive and worker-focused.

As this work continues, and as Canada's economic recovery grows nearer, it is necessary to further develop our bargaining strategies and integrate them into this larger effort.

As such, Unifor must consider ways to Build Back Better through bargaining. This document – a cross-union compilation of creative proposals to guide bargaining in the months ahead – intends to support that effort.

Similar to the national Collective Bargaining Program, this document serves as guideline for local negotiating committees and servicing staff – a set of directional bargaining policies representative of issues that are important to the union overall, based on experiences in the past year. Final decisions in the development of bargaining priorities rest with elected local committees and – ultimately – with the membership. The purpose of this program is to generate additional beneficial concepts for negotiators to consider.

Negotiating these recovery-based bargaining proposals into collective agreements, wherever possible, will ensure stronger and more durable protections for members in the face of this and future crises.

Together, over the coming year, we will use this document as a tool to develop our collective bargaining power and navigate the next phase of the pandemic, positioning all Unifor members to reap the full benefits of economic recovery.

PAY PREMIUMS AND PAY PROTECTION

The COVID-19 pandemic brought long-standing issues of pay disparity and income insecurity within the Canadian economy into sharp focus.

Many struggling through government-mandated workplace closures resulting in layoff face significant earnings losses and it is uncertain when they will return to work. In the best of cases, well-established income support measures – negotiated by unions – kicked in, providing added income stability to workers with reduced earnings. In the worst of cases, workers relied on baseline supports from the government, including various emergency response supports, which for some barely made up or failed to cover the income lost.

On the other side of the coin, workers deemed essential in the pandemic, too many of them struggling with below-average wages, found themselves pushed to work longer hours, often with disjointed and temporary pay incentives – some paid by employers, others subsidized by government.

If anything, this pandemic has illustrated the fact that employer obligations to workers' pay and income security must be clearly defined, and extend well-beyond the confines to time spent 'on the clock'.

Government supports, fought for and secured by trade unions and worker advocates, such as the temporary recovery benefits during COVID, but also including Employment Insurance, are essential but often insufficient. Employers are far better positioned to weather an economic storm than individual workers, by raising capital or dipping into reserves, and that's why they need to step in to provide additional support toward keeping employees whole.

Many existing collective agreements establish pay and income security provisions, including inflation protection, salary maintenance programs and hazard pay, although to varying degrees. In some cases, these provisions do not exist at all – or only exist for a particular subset of members.

Building Back Better means bargaining greater protections for workers in these, and other, areas of pay security.

OUR BARGAINING PRIORITIES

Workers' experiences through the pandemic highlight the importance of having contract provisions that not only maintain employment income for those on layoff or leave and recognize the essential role workers' play, but that also establish clear parameters governing the implementation of special hazard pay premiums or temporary bonuses.

Unifor will:

- **Refuse to accept any employer demands for pay concessions or any new two-tier wage structures in collective agreements.** In instances where two-tier wage provisions exist, the union commits to consolidating pay structures to eliminate disparities between workers.
- **Negotiate clear pay premium procedures in the event of a public health emergency or disaster.** Such provisions shall identify unambiguous parameters for the initiation and duration of such pay premiums, guided by established government directives, public health officials or within emergency response frameworks.
- **Negotiate benefit continuance language** so that workers temporarily laid off due to emergency orders or government-mandated closures are able to maintain their health benefits for the full duration of that period.
- **Attach all pay premiums to base rates of pay** (either hourly or salaried), so that workers receive the full value of the premiums on other wage-related contract provisions (e.g. vacation pay, overtime pay).

- **Prioritize the pursuit of meaningful real wage increases** for all members, and especially for those deemed essential during the pandemic.
- **Negotiate appropriate income security and salary maintenance provisions** designed to offset a members' lost earnings due to layoff or temporary/short-term leave of absence, in all collective agreements. Such provisions might include some, or all of:
 - Negotiated Supplemental Unemployment Benefit (SUB) programs, issued through Service Canada;
 - Income top-ups, triggered by reduced work-hours, production slow-downs, etc.;
 - Pre-retirement income bridging;
 - Supplemental payments to workers on maternity, parental (including adoption) or caregiving leave (including compassionate care).

JOB SECURITY

Across the country, the pandemic has put job security language to the test. From care responsibilities and on-line school to workplace closures and self-isolation requirements, workers needed time away from their jobs for myriad reasons. As the country turns towards recovery, it is imperative that workers return to work and face no penalty for having taken leave.

COVID-19 revealed large gaps in the availability of job protected leave in order to care for family members. A number of provinces and the federal government implemented temporary changes to employment standards, including job protected leaves.. What has become obvious is that those leaves are important to workers regardless of whether or not there is a public health emergency.

Many workers have been laid off for months with little knowledge of if or when they will return to their job. This is true in many industries including the hardest hit sectors, such as air transportation, hospitality, gaming and aerospace, among others. Some employers will use this long hiatus as an excuse to contract out work or implement new technology either replacing workers or requiring new skills. Such tactics are not new and, when used as a means to cut labour costs by eliminating good, stable jobs with absent mitigating measures, it is unacceptable.

No matter the reason for being away from work, Unifor members deserve the right to return to their job and the opportunity to upskill if their job requirements changed while away. Unifor has decades of experience protecting job security. That experience will be put to good use in the face of the pandemic.

OUR BARGAINING PRIORITIES

Unifor will:

- **Negotiate recall rights provisions in all collective agreements**, and ensure such provisions align with the principles of seniority, extend as far as is practicable, apply to all workers in the bargaining unit, and include the right to return to work.
- **Negotiate employer obligations within recall rights language to notify workers of the right to convert a recall-from-layoff notice into a job-protected work leave.** This notification must be included on a worker's recall notice.
- **Negotiate additional job protected leave** entitlements into collective agreements for the following categories of leave, if they do not currently exist:
 - **Infectious disease leave** in the event a member has contracted an infectious disease, has an underlying condition(s), or has been advised to self-isolate due to potential contact with an infectious disease;
 - **Care responsibility leave** in the event a member is unable to work due to parental responsibilities or the need to care for a family member who requires supervision because of a facility closure, need to isolate or underlying condition that could worsen the outcomes of an infectious disease.
- **Ensure all leaves of absence enable workers to continue accruing seniority** (including for the purposes of wage growth and wage progression) as is required by most employment standards legislation in Canada along with benefit continuation if not prescribed under law.
- **Negotiate flexibility in work scheduling or intermittent leave to enable workers to meet care and work obligations.**
- **Negotiate language that mandates the establishment of a Joint Return to Work Committee** responsible for overseeing a well-defined, properly resourced and dignified return-to-work protocol for each individual worker.
- **Negotiate return-to-work language that encompasses the potentially debilitating long-term effects of COVID-19** as well as adjustments that may be necessary to **protect workers with underlying conditions** from the spread of infectious diseases including the provision of personal protective equipment and episodic absence accommodations.
- **Resist employer efforts to introduce or unfavourably amend an Act of God or force majeure clause.** Such clauses, often dubious, can enable employers to side-step obligations in the collective agreement. The Office of the National

President must review any force majeure proposed in the course of collective bargaining.

- **Negotiate provisions that mitigate layoff, job displacement or work-hour reductions resulting from technological change**, along with opportunities and accommodations for **re-training, skills upgrading**, including essential skills training, and relocation for affected members. Such provisions must include coverage for laid-off workers whose job requirements changed while on lay-off. (Note: Unifor's full bargaining directive on new technology is featured in section 7 of [*"Stronger Together: Unifor Collective Bargaining Program"*](#))

HEALTH & SAFETY SUPPORTS

The pandemic has revealed stark gaps between workers when it comes to accessing health and safety supports and ushered in new ways of working that come with unique challenges to mental and physical well-being. Unifor lobbied hard at both federal and provincial levels for improvements to labour standards that would address some of these challenges. However, it is up to workers themselves to secure, through bargaining, many of the rights they need in the post-COVID era.

Most employers found themselves ill prepared for a pandemic and lacked infectious disease preparedness and response plans that would mandate temporary changes to health and safety protocols, use of personal protective equipment (PPE), sanitization, social distancing, and other workplace procedures. In many cases, union members and health and safety representatives had to step in to fill the gap and develop these protocols.

The pandemic also revealed how critical paid sick days are when it comes to limiting the transmission of infectious diseases. Yet only 42% of workers across the country have access to paid sick leave, including just 10% of the lowest paid workers. Unifor's efforts to lobby provincial governments across the country to introduce a minimum of 7 days of paid sick leave, with additional days of emergency paid sick leave made available during a declared public health emergency, are ongoing. Likewise, in many cases, workers have had to choose between taking the first available COVID-19 vaccination appointment and their income. While Unifor successfully pushed for the introduction of paid vaccine leave in some provinces, most workers across Canada continue to lack recourse to paid time off for vaccination.

Beyond the threats to workers' physical well-being, the COVID-19 pandemic illustrated the importance of having adequate mental health supports in place, with many experiencing severe stress and psychological strain due to the challenges of working during a pandemic, additional family and care responsibilities and increased social isolation. Adding to these mental health challenges was the rapid growth in teleworking during the pandemic, which underscored the need for workers to have robust protections from undue surveillance by employers through remote working software.

OUR BARGAINING PRIORITIES

More than ever before, bargaining priorities must include advancements to existing health and safety supports while ensuring that contingencies are in place in case of a future pandemic or public health emergency.

Unifor will:

- **Negotiate stronger sick leave or personal emergency leave** provisions, including a minimum of seven individual paid days for all workers, regardless of employment status, and any additional days of paid sick leave required during a pandemic or other public health emergency to offset lost earnings for workers required to quarantine or self-isolate in accordance with public health guidelines.
- **Negotiate [paid vaccine leave](#)**, so that workers can access a minimum of 3 paid hours for the purposes of vaccination during work time, with any associated expenses (childcare, parking/transportation, etc.) covered by the employer.
- **Ensure that workplace infection control preparedness plans are made mandatory**, included within collective agreements, incorporate Right to Know provisions that keep members informed of workplace transmissions and developed in collaboration with local unions to ensure that contingencies are in place in case of a future pandemic or health emergency.
- **Negotiate for better mental health supports**, including language that protects workers from discrimination due to mental health or addiction issues and the implementation of [Employee Family Assistance Programs \(EFAPs\)](#) that can provide confidential support and guidance to members in distress.
Negotiate privacy language including prohibiting or limiting the employer's use of monitoring technologies that track an employee's movements, personal health information as well as use of company or personal devices. Language must include specific parameters on **how data is used** and who can access it
- **Negotiate a right to disconnect provision** that limits workplace communication outside of work hours and allows members to refuse answering work-related emails, messages or calls during their off hours without fear of reprisal.

RACIAL JUSTICE AND WORKPLACE EQUITY

The pandemic not only revealed and exacerbated existing economic inequalities faced by workers in Canada, but highlighted and deepened social and racial inequities as well. Black, Indigenous and workers of colour experience disproportionately higher rates of unemployment, COVID-19 infections and fatalities. For those continuing working in sectors deemed essential, Indigenous and racialized workers found themselves in precarious positions that put them at greater risk of COVID-19 exposure, with less access to personal protective equipment (PPE), lower wages and few, if any, paid sick days.

A renewed global racial justice movement, meanwhile, has re-ignited calls for meaningful action to eliminate systemic racism and discrimination. This has led governments, employers and labour unions to evaluate their internal policies and structures, to identify barriers and develop concrete plans to increase equity and inclusion for Black, Indigenous and workers of colour. Trade unionists know that bringing about positive change in the workplace and community starts at the bargaining table. Recent negotiations between Unifor and the Detroit 3 automakers resulted in groundbreaking contract language, creating a workplace Racial Justice Advocate program – the first of its kind in the country and an inspiring example of how collective bargaining can help address workplace equity challenges.

Racism is a tool used by employers and those in power to divide workers and erode solidarity so that they can maintain their dominant status.. As a union, the most effective tool to combat this is collective bargaining, a source of worker strength and a means to promote economic justice for everyone. We cannot achieve economic justice without racial justice. This means integrating anti-racism strategies and racial justice principles into all aspects of the work progressive trade unionists do.

BARGAINING PRIORITIES

The following are areas where Unifor can continue making inroads towards tackling racial injustice and ensuring that any economic recovery leaves no one behind. To achieve this, we must continue focusing our efforts on education and awareness, supporting racialized and Indigenous members, eliminating workplace racism and discrimination and promoting employment opportunities for Black, Indigenous and workers of colour.

Unifor will:

- **Negotiate and support the development of [Racial Justice Advocates](#) in workplaces.** These specifically trained member representatives, who identify as Black, Indigenous or worker of colour, will deal with matters relating to racism and discrimination in the workplace, outreaching to and supporting racialized worker members, developing and executing anti-racism action plans and promoting national Unifor anti-racism initiatives and programs.
- **Negotiate commitments to increase hiring of Indigenous workers and workers of colour, including through employment equity plans** jointly developed between employers and the union to ensure that workplaces reflect diverse communities as well as diversity within those communities. Such efforts must also aim to ensure compliance and active enforcement of any prevailing legal requirements regarding employment equity, including oversights of action plans through comprehensive employment systems reviews in the workplace.
- **Negotiate recognition and workplace plans to collectively mark international, national or provincial days** that relate to racial justice, such as

the International Day for the Elimination of Racial Discrimination (March 21st), Indigenous People's Day (June 21st), Emancipation Day (August 1st), National Day for Truth and Reconciliation (September 30th), within Asian Heritage Month (month of May) or others. This can include workplace-led education, community activity as well as moments of silence or reflection.

- **Negotiate commitment to conduct regular workplace surveys or equity audits** to measure and evaluate workplace diversity and representation, track and monitor incidences of workplace racism, improve worker retention within racialized communities, assess the utilization of workplace grievance systems and identify areas where employer and union intervention is required. Without data or effective means to information and effective means for racialized and Indigenous workers to raise their concerns safely, we risk reproducing workplace racism and systemic barriers.

WORKING FROM HOME

The pandemic has created an historic shift in the labour market, as millions of workers in a variety of sectors have transitioned to working from home, either due to formal public health restrictions, employer-led relocations, or voluntary changes made by workers themselves. This shift continues to affect thousands of Unifor members.

According to Statistics Canada, in response to COVID-19 3.1 million Canadians were temporarily working from home as of February 2021. In fact, at the beginning of 2021 32% of workers, aged 15-69, worked most of their hours from home, compared with 4% in 2016.

This transition to working from home has provided significant benefits to some workers, while deepening pre-existing challenges for workers, or creating new ones, for others. In too many cases, workers are experiencing longer working hours, increased surveillance, and the shouldering of added employment-related costs previously covered by the employer. At the same time, the fight for the 'right to disconnect' has become more important than ever, as many workers feel like they are 'living at work,' rather than working from home.

In February 2021, UNI (a global union federation) released a study called, *Key Trade Union Principles for Ensuring Workers' Rights When Working Remotely*. UNI's report contains a comprehensive set of principles for ensuring workers' rights when working from home, including that:

- The use of surveillance tools to monitor remote workers should be restricted
- Remote work should be voluntary
- Employers should respect regular working hours and the right to disconnect
- Employers should remain responsible for the health and safety of workers
- Work equipment and remote workspace costs should be the employer's responsibility
- Remote work should be 'gender neutral' and open to all

Unifor can heed these core principles while charting a path forward to negotiating protections, and ensuring access to union representatives and services, for workers who are performing work remotely.

OUR BARGAINING PRIORITIES

Unifor members across various sectors are working from home without specific guidance through collective bargaining agreements. For many, this requires a new set of rules – and new approaches to solving persistent workplace challenges – including through a comprehensive bargaining response to telework.

Unifor will:

- **Ensure the collaborative development of Work from Home programs, between both company and union, and that these programs stay within the parameters of the collective agreement.** This includes the maintenance of negotiated workplace rights and conditions for those doing remote work, including seniority, limits to maximum hours and guaranteed rest periods, as well as health and safety considerations. Work from Home programs must not be a means to introduce atypical contract provisions, outside the scope of a collective agreement.
- **Ensure Work from Home programs negotiated into collective agreements are voluntary, and must improve flexibility for workers.** Workers and their circumstances are different. Employers must not force employees to work remotely and employees must have the opportunities to return to the workplace if they were required to work from home during the pandemic, or chose to work from home for other reasons. Prior to any assignment, employers must provide workers the necessary information enabling them to make a decision on whether working from home meets their needs. No one wishing to work remotely should be excluded from remote work opportunities unless the employer can demonstrate undue hardship.
- **Secure outsourcing bans or contracting-out moratoriums for individual workers, or groups of workers, that elect to work remotely.** Contract language must guard workers against threats of job loss, contracting-out or having any work assigned outside of the bargaining unit, resulting from their decision to work from home
- **Negotiate union awareness and safety training for all members – especially new hires – who perform work remotely.** Members working from home must continue to have full, unrestricted access to union representation as well as health and safety training and regularly scheduled communication with Joint Health and Safety Committee representatives.
- **Establish clear terms within Work from Home programs that ensure workers do not shoulder out-of-pocket expenses related to work equipment, workspace, and utilities (phone, internet, electricity, etc.)** Unifor expects employers to be responsible for providing, maintaining and replacing work-related equipment. Employers must also compensate for direct and indirect costs necessary for workers to perform their duties, as they would for other workers in the workplace.

- **Apply a gender and equity lens to the negotiation of Work from Home programs, ensuring that historically marginalized groups are not disadvantaged.** Remote work should be gender-responsive and open to all, must account for the personal safety and well-being of employees, and must be available without discrimination. Negotiating remote working agreements should also be part of a wider discourse on evolving workplace culture and expectations.
- **Institute contract protections that respect worker privacy and must control the use of surveillance tools.** The mass uptake of remote work has led to the increased use of worker surveillance tools. The use of any surveillance tools (e.g. software, electronic reporting) and data storage that could be used for disciplinary purposes must be restricted.

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