

**Ontario Education Workers Fight for the Rights of All**

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**Ontario Education Workers Fight for the Rights of All**

**Workers Respond to What Their Material Conditions Dictate**



**Solidarity Saturday action outside Premier Doug Ford's office, November 19, 2022.**

The striving of CUPE education workers in Ontario for wages and working conditions acceptable to themselves is based on what their material conditions dictate, not on some whims which according to the government are not affordable. They were informed on Sunday, November 21 that the union has now reached a tentative agreement which is being put to an online vote between Thursday, November 24 and Sunday, November 27. All that was public until now, including to rank

and file union members, was the rumour that the union had accepted a \$1.00 per hour raise each year over a four-year term and that the sticking point in the negotiations was the issue of expanding the number of support staff in schools to address the shortage of staff in all areas. The demands to increase staffing and improve working conditions are crucial to education workers, teachers, administrative personnel, students and parents because the situation in the schools is currently intolerable and unsustainable. Workers are also asking themselves what the monetary increase will look like against the cost of living four years from now.

When the Ontario government passed a law, the *Keeping Students in Class Act*, which imposed a contract written into the law, and invoked the notwithstanding clause of Canada's *Constitution Act 1867* to shield it from judicial review, the demands of the education workers no longer fell within the confines of labour law. Their demands became a political protest against a government which resorted to using its police powers to impose a self-serving agenda which it even refuses to discuss. Everything is couched in words which are given no meaning. Even the name *Keeping Students in Class Act* betrays the government's ill intention to isolate the education workers and teachers who stand as one with them because the dismal conditions in the schools are the children's learning conditions and affect everyone involved, including parents and the society itself.



Behind these attacks are the anti-social aim of the Ford government and ruling elites in general to dismantle the system of public education based on a project designed to serve the public good and to present this as a *fait accompli*. Governments of police powers are replacing the system of public education with privatized systems of online learning that convert teachers and students into things to be given skills required by the narrow private interests which have usurped the state powers. These interests require a disposable workforce -- in some cases unskilled, in some cases skilled -- which fits into their energy, communications, transportation and security corridors. The state is using public funds to finance the new infrastructure and facilities required in the mines, agribusiness, transportation and other sectors. It includes staffing warehouses and retail stores, the service industry, as well as increasingly privatized health care, long-term care, seniors homes, veteran affairs and on and on it goes.

Education workers refused to submit to this dictate and their strike transformed into a political protest which lasted two days. It was only called off when the government agreed to repeal the law and declare it was never passed in the first place.



Very significant is that the workers never gave up their right to strike when they agreed to stop their political protest. They have refused to submit to the use of government police powers and continue to assert their right to negotiate their wages and working conditions despite the fact that governments nowadays are not keen on negotiating anything, just dictating. Everyone is thus interested to see what the tentative agreement contains and whether a negotiated settlement which provides solutions agreeable to the education workers is on the table.

Indications from what the union has said are that the agreement does not meet the needs of the workers but that the government needs to hear that from the workers themselves through a vote.

It has been confirmed that the CUPE-OSBCU tentative agreement includes a flat-rate wage increase, but the exact amount of the increase has not been confirmed. Based on statements by CUPE-OSBCU, it is clear however the agreement does not include the level of wage increases that were being demanded by the workers in order to keep and attract people into the field, nor does it provide proper funding for the services students in Ontario require. The issue now is can education workers and their allies establish a way forward that unites everyone to force a government to back down. This government refuses to bargain in good faith or uphold a rule of law which does not seek to impose its will through threats of the use of force and with the use of policepowers to silence the resistance movement.

In speaking to the agreement, CUPE-OSBCU President Laura Walton, said: "As required, the central bargaining committee will recommend members accept the agreement during the ratification vote." Addressing education workers directly, Walton said: "You gave the bargaining team a hefty assignment: achieving real wage gains, improving working conditions, and enhancing the services our students need and our parents rely on. You poured your energy into this fight. You organized, you made phone calls, you built solidarity and you deserve so much more. I'm incredibly proud of the work that you have done and now it's your turn to make your voice heard by the government and school boards with the ratification vote."

Addressing parents, Walton said: "The entire central bargaining committee wishes we could have moved the government to make the investments in public education that you not only wanted, but that you needed and that your children deserve. That fight does not end with one setback. We will keep representing your needs and we will keep fighting for you and with you. We will keep pushing for the type of supportive, safe and enriching schools and classes that all children deserve."

Meanwhile, when Education Minister Stephen Lecce spoke to the media to announce the tentative agreement, he mainly used his time to repeat the government's mantra that keeping kids in the classroom, irrespective of the conditions, is the most important thing for his government and that they will do everything "humanly possible" to ensure kids remain in the classroom. He also used the opportunity to issue a veiled threat to all other education unions in negotiations, dictating what teachers and education workers will do with their volunteer time. He said: "This is a positive outcome for all the parties, but the biggest beneficiary of this deal is our kids who are going to have some stability and stay in school, with the full benefits of extra-curriculars and clubs and sports, the educational benefits, the tutoring, all this will be provided to our children tomorrow and every day..."

The ball is now in the court of the education workers. They will decide what to do next.

For the full remarks of Walton to the press [listen here](#).



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## **Education Workers and Teachers Create New Ways and Means to Defend Their Just Claims**

Rallies were held again on Saturday, November 19 to show support for CUPE education workers and their demands. Called by the Ontario Federation of Labour (OFL), the rallies brought together education workers and people from all walks of life at the offices of targeted members of the Ontario Legislature. Meanwhile, in case the strike were to continue, school boards responded in different ways. Some boards said their schools would go online once a strike began, while others modified schedules to reduce time at school. In some, students with special needs had been told not to come to school in the event of a strike while those who do not have special needs should go to school. Chaos reigned for lack of an authority which upholds standards which provide a structure in

which everyone is equal and their needs are met based on modern definitions of what it means to be human. Even basic standards are cast aside as school boards scrambled to respond to a situation where they cannot predict what will happen.



**Windsor action in support of education workers, November 19, 2022**

Education unions are faced with new situations as a result of the developments of the technical and scientific revolution which have introduced online learning and the like. But the teachers and parents are proposing ways which uphold principles of workers' solidarity, such as opposing the use of virtual learning to achieve what is in reality having teachers cross picket lines. Teachers have also been discussing how to deal with union claims that unless they are in a legal strike position workers cannot respect picket lines of their fellow workers. Under obsolete labour law which governments no longer even respect, but unions are told they must, all the unions can legally tell their members is that they will grieve unfair practices but that members must comply first.



**Dundas Square Toronto, November 19, 2022**

In other words, those associated with the work of education workers should be limited by labour law when they know that by the time any grievance is settled it will be moot. Labour law renders them powerless to lend effective support to the education workers' just cause under the present conditions when governments no longer uphold the aim of the labour law or the methods it provided to establish labour peace in exchange for providing wages and working conditions as required by the material conditions. Teachers are in no mood to compromise with governments which have openly broken all the arrangements from the post-war period. They are finding ways and means to collectively affirm their right to conscience and decide what is good for them and

favours students, besides their own health and professionalism. Many have taken the stand to deliberately not have their own kids log on to virtual. There are open calls to encourage parents to let their children's teachers know that the children will not log on to virtual as a political stand against what the government is doing.

In addition, since the government invoked the notwithstanding clause and CUPE refused to buckle under the government dictate, teachers across the province have been discussing ways and means to defend their interests. The education unions were saying that teachers could not join CUPE's protests as they were not in a legal strike position. While they were informed that labour laws and union protocols only permit them to show support for the education workers on their own time with signs or by showing up at picket lines, activists from Ontario Education Workers United, a Facebook group formed three years ago during the last strike, made an appeal for fundraising to provide grocery funds for CUPE workers if their protests continued. In three days, the GoFundMe campaign raised \$150,000. This is significant considering that traditionally the unions themselves will donate money to striking workers on behalf of the educators. In this case it was the rank and file educators who took up doing it themselves in an organized manner in response to being told they couldn't really do much.



Solidarity actions in Sarnia, November 19, 2022

CUPE officially accepted the campaign as well, making it clear that it was appreciated and legitimate. This was in addition to the BC Teachers' Federation announcing a \$1 million dollar

donation to CUPE's strike fund. The Ontario Secondary Schools Teachers Federation (OSSTF) also gave \$150,000. The initiative of the grassroots educators to say that if we can't walk out with CUPE then we should financially support them as a way of making it everyone's fight was a great success. Also, in some local schools teachers launched a collection after CUPE's two day protest appealing to all the staff to ensure that CUPE workers alone did not have to bear the burden of fighting for everyone's rights when they lost two days pay.

This is a fight for the rights of all and we should all financially support it to show we stand as one. *Renewal Update* is informed that at one school \$1,400 was raised in two days with everyone from the lowest paid workers and even members of the administration contributing. *Renewal Update* could see that across the province only those who are loathe to do anything which is not approved by either the government or the union do not join such actions. Nonetheless, there is a definite consciousness emerging that workers cannot be hamstrung by waiting for others to tell them what to do. By working out their aim, and uniting in action to carry them out, such actions are meeting with success.

As things unfold what is clear is that teachers and education workers are more clearly identifying that given the government does not negotiate and is intent on violating their rights and the rights of all, they have to operate beyond the limitations of what is permitted under labour law to be effective in making the claims that they must. It is a political matter which requires a political response because governments have broken all previous arrangements and understandings which formed a social contract. Today, there is nothing pro-social about what governments of police powers are doing. This is a political problem which all are called upon to resolve in their favour.



Windsor, November 19, 2022



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## Government's Bogus Offer to Provide Childcare

The Ford government is so bogus that while it claimed to be negotiating a new contract for education workers in Ontario, it informed that in the event of a strike it would provide childcare for health care and childcare workers.

Everyone knows that the government has not put the capacity to provide childcare in place. If they have the capacity to provide childcare in this manner why not do it all the time? People suspect it is all about handing out inadequate subsidies from public funds for people to find their own childcare, or loosening regulations on the childcare centres which already exist. It was aimed at trying to paint any strike as being a threat to health care and childcare when in fact the workers in those sectors face the same conditions as the education workers and are also fighting for their right to negotiate in the face of the government's anti-social Bill 124 that limits their wage increases to one per cent.



## Irrational Attempts to Define When and How Rights Can be Violated in Ontario

On November 15, the Liberal MPP for Ottawa --Vanier, Lucille Collard, tabled Bill 37, the *Notwithstanding Clause Limitation Act, 2022*. This legislation came a day after the Ford government was forced to repeal its use of the notwithstanding clause contained in the *Keeping Students in Class Act*, legislation which violated the rights of all workers, including the 55,000 CUPE education workers.

It is the most ridiculous diversion to cover up that today, at both the federal and provincial levels, we have governments of police powers. They have concentrated decision-making powers in the hands of executives. In their dealings with the public sector workers, they do not negotiate but dictate wages and working conditions which are untenable. When the people resist, they legislate them back to work.

The use of the notwithstanding clause in the *Keeping Students in Class Act* was a stretch of Doug Ford's greedy little mind that he could get away with knocking the Ontario working class out of the playing field altogether, once and for all. The bill would "legally" turn workers into things subject to civil death. "Things" can be disposed of as the private interests see fit. It will not pass.



What is ridiculous is the squabble in the ranks of the rulers and their pundits and retinues that the use of the notwithstanding clause, which negates the limited rights contained in the *Charter of Rights and Freedoms*, should now be limited. And who decides the limitations and the limitations on the limitations? Not the working people that is for sure. According to its description, Bill 37, the *Notwithstanding Clause Limitation Act, 2022* provides that "bills cannot invoke the notwithstanding clause in the *Canadian Charter of Rights and Freedoms* except in certain circumstances."

"If the clause is invoked by a minister of the Crown, the Attorney General is required to table a report in the Assembly detailing how its use can be demonstrably justified in a free and democratic society and describing why alternatives to its use were deemed inadequate."

It would add a special majority requirement of two-thirds of the legislative assembly members for bills invoking the notwithstanding clause to be adopted.

The democracy is broken and passing more laws is not going to fix it. To declare that Attorneys General are trustworthy because they are Attorneys General is like putting the proverbial fox in charge of the proverbial hen house. No government at any level is showing how anything can be "demonstrably justified in a free and democratic society." Their notions of what constitutes a free and democratic society defend the constitutional order based on "the king's democracy," which means there are rulers who govern above the people and have the power to make all the decisions which affect our lives.

The material conditions the working people face are objective and the problems these material

conditions give rise to require solutions. The rulers have no interest in providing them with solutions or limiting limitations. Doing so goes against the the trend of concentrating police powers into fewer hands. Police powers are the prerogative powers in the hands of ministers and also of the courts. They decide the limits to be imposed on rights and how to define what they claim to be reasonable. These police powers are by definition without limits except if and when either the legislatures or, in the absence of their functioning, the collective will of the people as expressed through political actions, can contain them. Passing more laws will not heal the broken democratic system which is based on giving the power to the rulers to declare what is reasonable.

It is all fraud to entertain themselves while they hope they can carry on merrily floating down the stream. It ain't going to happen.



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## **For Your Information**

# **Who Said What Regarding Tentative Agreement Between CUPE-OSBCU and Ontario Government**

### **Canadian Union of Public Employees-Ontario School Board Council of Unions**

The central bargaining committee for 55,000 frontline education workers who are members of CUPE's Ontario School Boards Council of Unions (OSBCU) has reached a tentative agreement with the provincial government and the Council of Trustees' Associations (CTA).

"The tentative agreement includes a flat-rate wage increase, instead of a percentage," said CUPE-OSBCU president Laura Walton. "This tentative agreement is nowhere near everything education workers and kids deserve, however it's all this government is willing to give."

"The biggest gap at the end was no new funding to guarantee that services will be provided in schools for students," noted Walton. "For that, to parents and families, all I can say is that I'm disappointed and so is the entire bargaining committee."

Frontline education workers employed by 63 school boards and one school authority across the province will have the opportunity to review details of the tentative agreement and vote on whether or not to accept it. As required, the central bargaining committee will recommend members accept the tentative agreement during the ratification process that will take until next weekend.

### **Ontario Minister of Education**

Today, Stephen Lecce, Minister of Education, issued the following statement regarding a tentative central agreement with the Canadian Union of Public Workers (CUPE). This is the first tentative central agreement reached through the 2022 round of central collective bargaining in the education sector:

"Throughout these negotiations, our government's focus has always been keeping students in the classroom without disruption.

I am pleased to formally announce that the Crown, the Canadian Union of Public Employees (CUPE), and the school board trustee associations, have reached a tentative agreement that keeps schools open so that kids can stay in class. I know this is welcome news to all students, parents, and workers alike, who now have the certainty they've been looking for.

This is not a win for governments or education unions, it's a win for Ontario families who finally

have peace of mind knowing their children will remain in the classroom.

After two and a half years of unprecedented disruptions, nothing matters more than stability in our schools. We are pleased to have reached a deal today that will make sure kids are in class catching up on their learning."

### **Joint Statement**

#### **Presidents of the Elementary Teachers' Federation of Ontario, Ontario English Catholic Teachers' Association, Ontario Secondary School Teachers' Federation, Association des enseignantes et des enseignants franco-ontariens**

Today's announcement from the Canadian Union of Public Employees (CUPE) confirms that draconian legislation and the use of oppressive tools, such as the notwithstanding clause, are not necessary to achieve fairly negotiated agreements.

When done in good faith, free and fair collective bargaining works.

The Ford government's overreach was an affront to workers' *Charter* rights and disregarded the meaningful collaboration that should be the hallmark of negotiations. Through a collective bargaining process that respects the free and fair exchange of ideas between stakeholders, we can strengthen publicly funded education. That is the goal.

Congratulations to CUPE's bargaining team and backed by the Ontario School Board Council of Unions -- Conseil des syndicats des conseils scolaires de l'Ontario (OSBCU-CSCSO)'s 55,000 members. OSBCU-CSCSO's members have the opportunity to vote on a freely bargained contract and the labour community is more united than ever.

In solidarity,

*Karen Brown, President, ETFO*

*Barb Dobrowolski, President, OECTA*

*Karen Littlewood, President, OSSTF/FEESO*

*Anne Vinet-Roy, présidente/President, AEFO*

### **Ontario Public School Boards' Association**

The Ontario Public School Boards' Association (OPSBA) is pleased to announce that the Council of Trustees'/School Board Associations (CTA) and the provincial government have successfully negotiated a tentative settlement on central terms of a collective agreement with Canadian Union of Public Employees (CUPE) education workers.

"We're very pleased that students will be in the classroom tomorrow," said OPSBA President Cathy Abraham. "This tentative agreement recognizes the important contributions of our vital education workers and the significant roles they play in our schools."

The details of the agreement remain confidential until ratified by all parties. CUPE has agreed to stop all job action while awaiting ratification of the deal.

OPSBA will continue to negotiate a fair and fully funded agreement with the other unions representing teachers and education workers, with the best interests of students in mind.

The CTA is a partnership among the following four Associations: Association des conseils scolaires des écoles publiques de l'Ontario; Association franco-ontarienne des conseils scolaires catholiques; Ontario Catholic School Trustees' Association; and the Ontario Public School Boards' Association.

### **Ontario Catholic School Trustees' Association**

"We are very pleased that following many days of bargaining, the Council of Trustees' Associations, the Provincial government and the Canadian Union of Public Employees (CUPE) reached a tentative collective agreement. The tentative agreement ensures that the students in Catholic schools throughout Ontario and the dedicated CUPE staff who serve them will remain in schools Monday.

Details of the tentative agreement will be shared following ratification. We are appreciative of the efforts of our bargaining team, Trustee Association and Crown partners and the representatives of the Canadian Union of Public Employees."

*Patrick Daly, President*

### **Association franco-ontarienne des conseils scolaires catholiques**

The Association franco-ontarienne des conseils scolaires catholiques (AFOCSC) welcomes the tentative agreement reached between the Crown and the Canadian Union of Public Employees (CUPE) and the Council of Employer Associations (CAE).

After weeks of unsuccessful negotiations between the Ford government and the union representing education workers in Ontario, we are relieved that the parties have finally reached a collective agreement for a new contract to run until August 2026. The parties were able to find common ground on the working conditions applicable to CUPE member employees, to ensure stable labour relations for the next four years and positive working conditions for every employee.

This tentative agreement, reached late yesterday, will help return stability to our students, allowing them to return to class without another strike announcement threatening to close schools. It is also a relief for parents, so that they are not further disrupted by unstable schedules. As a result, schools remain open and staff are on duty. The AFOCSC will release the details of the agreement once it is ratified by CUPE members.

Johanne Lacombe, President of AFOCSC said: "It is heartening for our school boards to see that our teams were able to reach a negotiated tentative agreement with CUPE. Students will be back in the classroom receiving the best services possible. It is our hope and desire that the next rounds of negotiations will be concluded without any disruption of service. The success and well-being of students and staff must be a priority for all partners at the bargaining table."

AFOCSC thanks the Canadian Union of Public Employees (CUPE), ACE and the government for their work in reaching this first tentative agreement. We hope that the negotiation process with the various unions in the education sector will also come to a similarly encouraging conclusion.

*(Unofficial translation from the original French by Renewal Update)*

### **Association des conseils scolaires des écoles publiques de l'Ontario**

We are pleased to announce that a provincial tentative agreement has been reached between the Canadian Union of Public Employees (CUPE), the Council of Employer Associations, of which ACÉPO is a member, and the government. As a result of this tentative agreement, CUPE members

will be on the job on Monday, November 21, thus avoiding a full strike.

The details of the agreement with CUPE will be made public after union members and school boards have ratified the terms. If accepted, the agreement will be valid until the next negotiations in 2026. The Minister of Education congratulated the parties involved at the negotiating table for their diligence and openness.

Thanks to this agreement, the threat of a general walkout by CUPE will not be exercised. School boards will be able to continue their educational mission while counting on the services of their staff who will continue to perform their duties to the fullest.

"We are pleased to have reached an agreement with CUPE that will allow our staff to continue to provide the best for our students without interruption. Whether it is the administrative staff, janitorial staff or classroom paraprofessionals, each of these individuals is important to the realization of our educational mission," says Benoit Fortin, President of ACÉPO.

This is the first agreement reached in this round of bargaining between the various unions and associations representing school board staff in the province. Encouraged by the agreement with CUPE, ACÉPO hopes to reach provincial agreements in the coming weeks with all education unions and associations. The priority of our representatives at the bargaining table remains the success and well-being of students in a respectful environment for all.

ACÉPO thanks CUPE, the members of the Council of Employer Associations and the government for the ratification of this agreement.

*(Unofficial translation from the original French by Renewal Update)*



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## **Bill 37, the *Notwithstanding Clause Limitation Act, 2022***

The full text of the Bill reads:

### **"Bill 37 2022**

### **"An Act respecting the use of the notwithstanding clause**

"His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### **"Limitation on use of notwithstanding clause**

1 (1) A bill of the Legislative Assembly shall not include a declaration pursuant to section 33 of the *Canadian Charter of Rights and Freedoms* stating that a provision in an Ontario law operates notwithstanding a provision of the *Canadian Charter of Rights and Freedoms*, except in accordance with subsection (2).

### **"Use permitted in certain circumstances**

"(2) A bill of the Legislative Assembly may include a declaration described in subsection (1) if,

"(a) the bill addresses an urgent and critical situation of a temporary nature that seriously endangers the lives, health or safety of Ontarians;

("b) the bill would amend an Act containing a provision that has been found by a court to have contravened the *Canadian Charter of Rights and Freedoms*; and

"(c) the declaration would only declare the contravening provision in the amended Act to operate notwithstanding the provisions of the *Canadian Charter of Rights and Freedoms* that it has been found to contravene.

**"Attorney General's report**

**"Application**

"2 (1) This section applies to every bill introduced in the Legislative Assembly by a minister of the Crown that includes a declaration described in subsection 1 (1).

**"Report**

"(2) For every bill described in subsection (1), the Attorney General shall cause to be tabled in the Legislative Assembly a report detailing,

"(a) how the declaration described in subsection 1 (1) can be demonstrably justified in a free and democratic society; and

"(b) what alternatives were considered before the government introduced a bill with this declaration and why they were deemed to be inadequate.

**"Timing**

"(3) The report described in subsection (2) must be tabled within 30 days after the day the bill was introduced.

**"Adoption requires two-thirds majority**

"3 A bill containing a declaration described in subsection 1 (1) shall not be adopted by the Legislative Assembly unless it receives the approval of at least two-thirds of members elected to the Legislative Assembly."

*(Legislative Assembly of Ontario)*



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