

# Questions and Answers

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## on the OPSEU campaign to make joining a union legal for college part-timers

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### 1. Why is OPSEU launching a campaign to make unionization legal for community college part-timers?

Ontario is the only province in Canada where it is illegal for part-time college employees to join a union. As a result, Ontario colleges exploit part-timers (both academic and support) as a source of cheap labour, denying them the better wages and working conditions collective bargaining provides. This is blatantly unfair and a violation of the basic human rights of part-timers. They do the same work as full-time employees; they deserve the same right to unionize.

### 2. Why is unionization against the law for college part-timers?

The rules around unionization and collective bargaining in Ontario community colleges are set out in the *Colleges Collective Bargaining Act (CCBA)*, passed in 1975. The CCBA sets out who may be in the Academic or Support bargaining units - and who may not.

As with most bargaining units, managers and those who deal with labour relations issues for the employer are excluded. The CCBA also excludes certain professionals (architects, engineers, dentists, doctors, lawyers) and the following people:

Academic staff:

- teachers who teach six hours or fewer per week;
- part-time counsellors and librarians; and
- teachers, counsellors or librarians who work fewer than 12 months in any 24-month period.

Support staff:

- people who are regularly employed for not more than 24 hours a week;
- students employed in co-op educational programs;
- CAAT graduates who, within 12 twelve months of completing their course of study, are working for a college as part of a certification, registration or other licensing requirement; and
- people hired “for a project of a non-recurring kind.”

### 3. How many college part-timers are there in Ontario?

The number changes daily and varies widely from college to college, but in total we estimate there are about 16,000 part-timers right now. That’s more than the 15,000 full-time academic and support employees OPSEU represents.

#### **4. How many college part-timers could be unionized if the law were changed?**

OPSEU estimates that about 16,000 people are being deprived of union rights because of the CCBA. The number varies widely throughout the year, but in general the numbers are probably something like this:

- 6,000 faculty teaching credit courses for six hours or fewer per week;
- 2,000 faculty teaching non-credit (“continuing education”) courses per week;
- 750 “sessionals” who teach more than 12 hours a week but who have not worked more than 12 months of the last 24;
- 4,100 support staff working fewer than 24 hours a week; and
- 3,700 student hires working as support staff.

#### **5. If the law is violating college part-timers’ basic human rights, why not challenge the law under the Charter of Rights and Freedoms?**

Premier Dalton McGuinty does not need a Supreme Court ruling to give college part-timers the right to unionize. He could do it any time.

Charter challenges take a long time, and there is no guarantee that the courts would force McGuinty to bring in a new law. Here’s some background on Charter challenges in Canada:

- In 1999, an RCMP Staff Sergeant argued that the Canada Labour Code and the *Public Service Staff Relations Act* violated his Charter rights because they barred RCMP officers from joining a union and bargaining collectively. The Supreme Court disagreed.
- The United Food and Commercial Workers (UFCW) challenged the legislation that barred Ontario farm workers from unionizing, but in 2001 the Supreme Court ruled that, while farm workers had a Charter right to freedom of association, this did not automatically mean a right to unionization and collective bargaining.
- On Oct. 2, 2005, the New Brunswick Union of Public and Private Employees challenged the provincial law which bars casual employees of the province from joining the union until they reach six months of service. A victory for the union could set an important precedent for Ontario college part-timers, as the cases are similar. Victory is not guaranteed, however. And no one knows when the case will be heard.

#### **6. What is the government’s position on union rights for college part-timers?**

The Minister of Training, Colleges, and Universities, Chris Bentley (formerly Minister of Labour) says changing the law is not on the government’s agenda. During the 2003 election campaign, Liberal leader Dalton McGuinty gave this answer:

“We are very sympathetic to concerns about treating part-time college instructors differently from teachers, professors and other workers in terms of their right to organize. We look forward to discussing with workers and the colleges options for amending the governing legislation to allow part-time instructors to exercise their right to accept or reject union certification, while recognizing the financial constraints facing the institutions.”

Translation: McGuinty doesn’t seem to know that not all college part-timers are “instructors,” but he does know three things: 1) it’s wrong to bar part-timers from unionizing; 2) unionization could cost more; and 3) he’d rather “discuss” the issue than just go ahead and change the law.

## **7. Won't unionization of part-timers increase costs for colleges? Why should taxpayers support changing the law?**

"It's too expensive!" Employers have said the same thing about the abolishing slavery, bringing in the minimum wage, and introducing pay equity. Higher cost is not a valid reason to trample on basic human rights. Ontarians want their friends, neighbours, and relatives to be treated fairly, no matter where they work.

In any case, no one expects that the unionization of part-timers would create unreasonable demands on the public purse.

## **8. Do part-time employees at Ontario universities have the legal right to unionize?**

Yes. Now that colleges are entering into partnerships with universities, many college part-timers are working closely with university part-timers. The former can't unionize; the latter can. It's no surprise the university part-timers have better wages and working conditions.

## **9. How will changing the law affect full-time employees?**

In itself, changing the law will have no direct effect on full-time employees. If and when part-time employees do unionize, however, the employer will find it harder to use part-timers as pawns to undercut full-time wages and working conditions.

## **10. If part-timers really wanted to change the law, wouldn't they be launching this campaign themselves? Why is OPSEU taking this issue on?**

By definition, part-time college employees have no job security and no protection if they speak out in favour of unionization. None have the time or money to mount a campaign to organize 16,000 people across 24 colleges. OPSEU is second to none when it comes to mobilizing people around issues that matter to them, and we have the resources to do it.

## **11. What can we do internationally?**

The United Nations' Universal Declaration of Human Rights says that "Everyone has the right to form and to join trade unions for the protection of his interests." Through our national union, NUPGE, OPSEU has filed a complaint with the International Labour Organization, an agency of the U.N. NUPGE is asking the ILO to put pressure on the Ontario government to allow unionization of college part-timers.

## **12. How long will this campaign take?**

We don't know. Dalton McGuinty could end it tomorrow by changing the law. OPSEU intends to do whatever it takes – for as long as it takes – to win justice for college part-timers.

### **13. Are there other Ontario laws, besides the CCBA, that affect college part-timers in particular?**

Yes. Most people think of the *Employment Standards Act* (ESA) as the floor for worker rights in Ontario. And for most people, it is. But because they are deemed to be “Crown employees,” college part-timers are not covered by certain parts of the ESA and actually have fewer rights than other workers. Unlike most workers, college part-timers are not entitled to statutory holiday pay, vacations or vacation pay, or other benefits most workers take for granted.

### **14. Does OPSEU support changing the ESA to strengthen the rights of college part-timers?**

Yes. With union rights, however, part-timers will have a means to bargain for improvements that are *better* than what is in the ESA.

### **15. What are the next steps in the campaign?**

At this stage, the two key tasks in the campaign are: 1) getting in touch with part-timers; and 2) lobbying of MPPs. The two are closely linked. Politicians need to hear from part-timers about their experiences and their issues. Over the next few months, part-timers and their full-time colleagues will be meeting with MPPs. If you want to get involved, send a message to [collegeworkers@opseu.org](mailto:collegeworkers@opseu.org) and we will put you in touch with your local lobby committee.

### **16. How do I get involved?**

1. **Send a message to [collegeworkers@opseu.org](mailto:collegeworkers@opseu.org).** OPSEU is working to organize committees at every college. Drop us a line and we'll hook you up with the right people a.s.a.p.
2. **Get informed. Read this backgrounder.** Become a regular visitor to [www.collegeworkers.org](http://www.collegeworkers.org).
3. **Sign the online petition at [www.collegeworkers.org](http://www.collegeworkers.org).** Have your family members sign as well. The petition will be presented in the Ontario Legislature.
4. **Talk to all the college part-timers you know.** Tell them about the campaign and the web site. Ask them to sign the petition, too.
5. **Contact your MPP, your nearest Cabinet Minister, or the Premier.** Ask for their support. Get your family and friends to do the same (MPP contact information is on the web at [www.ontla.on.ca](http://www.ontla.on.ca). Just click “Members” and then click the right link under “Current members.”).