

# UNA Strike Action FAQ

The United Nurses of Alberta (UNA) always strives to achieve a fair collective agreement without resorting to work disruption. Unfortunately, this is not always possible. When members have questions regarding a possible nurses' strike, it can cause significant stress. Below are answers to some common questions. Please note that UNA has answered these questions to the best of its ability at this time, but strikes are dynamic situations, and the information below may change with circumstances.

## GENERAL STRIKE INFORMATION

**1) Q: I thought it was illegal for nurses to strike?**

**A:** The law previously made it illegal for nurses to strike. The law has changed. As described above, nurses can now legally strike, if certain preconditions are met. Strikes that do not meet those preconditions are illegal. UNA has engaged in legal and illegal strike action in the past, and carefully assesses potential outcomes before recommending a strike to the membership.

**2) Q: So, are nurses allowed to strike?**

**A:** Provided that the parties have reached an Essential Services Agreement (ESA), nurses have the legal right to strike. UNA must also follow certain processes through the Alberta Labour Relations Board (ALRB) to put ourselves in a legal strike position. This includes mediation, a cooling-off period, and notice that a strike will commence.

**3) Q: What is an Essential Services Agreement (ESA)?**

**A:** An Essential Services Agreement (ESA), negotiated between Employers and Unions, outlines mutually agreed-upon staffing levels. An ESA allows Unions to take strike action or Employers to lock out unionized employees without

endangering the health and safety of the public.

Services are only essential if interrupting them would:

1. Endanger the life, personal safety or health of the public; or
2. They are necessary to maintain and administer the rule of law or public security.

For Employees represented by UNA, the first definition is likely to be the most relevant. If interrupting a service would be inconvenient or disadvantageous for the public (including patients), but would not endanger the public's life, personal safety or health, it is not essential and must not be performed during a strike. For a strike to be effective, it is important that non-essential services be withdrawn.

**4) Q: Why would we go on strike?**

**A:** UNA's priority has always been to negotiate a fair collective agreement without any work disruption. Normally, we can achieve this. Sometimes, the Employer or the Government refuse to take our insistence on achieving a fair collective agreement seriously and we are left with few options. Striking is our last resort. A strike puts pressure on the Employer and the Government to resolve the outstanding issues and provide a fair collective agreement.

**5) Q: Who decides to go on Strike?**

**A:** A strike vote is conducted Province-wide with **all members** covered by the Provincial Collective Agreement. If a majority vote to strike, UNA will assess the strength of that support. The negotiating committee (“Neg Comm”) will use a strong strike mandate to convince the Employer that we are serious about the outstanding issues. If negotiations break down, the Union must still work through the ALRB process. If UNA is satisfied that there is strong support, the Neg Comm will strategically decide when a strike will take place.

**6) Q: If we go on strike, will it be a rotating strike (i.e. only impacting certain sites/programs) or all out (i.e. all sites/programs)?**

**A:** UNA’s Negotiating Committee will make that decision based on demands, effectiveness, and other relevant factors.

**7) Q: What if my friends and family are not supportive of a strike?**

**A:** Often people do not know the whole story surrounding a strike or are basing their opinion on inaccurate information. Offering information about why you are on strike might help them better understand. Don’t get into heated debates, respect their opinion, and hopefully they can respect yours.

**8) Q. What about public backlash?**

**A:** Studies have shown that nurses have one of the highest levels of respect amongst the public. They know that nurses are dedicated to their patients and truly want to make changes to protect and improve the care that they can provide.

But history has shown that sometimes there is a lot of public support and sometimes there is a lot of public opposition.

## STRIKING WORKERS

**9) Q: Can I cross the picket line during a strike?**

**A:** No. The ESA prohibits replacement workers. The Employer is not allowed to let Employees in the bargaining unit on strike to work at that site unless they are a designated essential services worker on that shift.

**10) Q: How do I pay my mortgage if I am on Strike?**

**A:** Members who are participating in strike support are eligible for strike pay. Strike pay is not designed to be salary replacement but rather to help pay essential bills. Banks can be accommodating during a strike and may waive mortgage payments without penalty, for a period. You should approach your bank and see if this is an option.

**11) Q: How much is strike pay?**

**A:** Provided the Collective Bargaining Fund continues to have funds, all members actively participating in strike support will receive strike pay as per the UNA Constitution and UNA Policies and Procedures.

Currently, strike pay is as follows (shift lengths are rounded up to the nearest whole number):

- > \$50 for a missed regularly scheduled 4-hour shift
- > \$75 for a missed regularly scheduled 6-hour shift
- > \$100 for a missed regularly scheduled 8-hour shift
- > \$125 for a missed regularly scheduled 10-hour shift
- > \$150 for a missed regularly scheduled 12-hour shift

Members who are actively participating in strike support who are casual will receive \$100.00 based on their average number of hours worked over the last 12 weeks.

Members who are assigned to work under the ESA will not be entitled to strike pay for that shift (but will be paid per the Collective Agreement).

Members can sign into UNAnet and submit a strike pay claim via DMS.

**12) Q: Am I entitled to sick leave while on strike?**

**A:** If you are on strike and become ill, you will likely not have access to sick leave, as that entitlement under the Collective Agreement will not be in force for striking workers.

If you are already on sick leave when a strike commences (i.e., you became ill before the strike began), UNA's position is that you are entitled to continue that sick leave until you are medically cleared to return to work. At that time, sick pay would cease, and you would be subject to strike pay rules.

**13) Q: Am I entitled to benefits while on strike?**

**A:** Yes. The ESA requires the Employer to maintain benefit coverage for all Employees enrolled in Employee Benefits as per Article 21 of the Collective Agreement. UNA will be billed by the Employer for these costs during a strike. However, while benefit plans are maintained, some eligibility rules within those plans may limit or restrict what benefits striking Employees can access. For example, both short-term disability (STD) and long-term disability (LTD) require that an applicant for disability benefits be "actively at work" at the time of their illness or disability. Striking workers are not likely to meet this requirement, and therefore may have their STD/LTD applications denied.

**14) Q: Am I entitled to short-term disability (STD) and/or long-term disability (LTD) while on strike?**

**A:** Employees with an approved STD/LTD claim at the time a strike commences should continue to receive their disability payments. Employees on strike will maintain the right to apply for STD/LTD benefits. However, both short-term disability (STD) and long-term disability (LTD) require that an applicant for disability benefits be "actively at work" at the time of their illness or disability. Striking workers are not likely to meet this requirement, and therefore may have their STD/LTD applications denied.

**15) Q: Am I entitled to Workers' Compensation Board (WCB) payments while on strike?**

**A:** Employees with an approved WCB claim at the time a strike commences should continue to receive their WCB payments. Employees on strike will be covered by UNA's WCB Coverage.

**16) Q: Am I entitled to vacation while on strike?**

**A:** UNA's position is that pre-booked vacation that falls during a strike should be honoured by the Employer. However, no new vacation requests or vacation pay-out requests are likely to be approved once a strike has commenced.

**17) Q: Am I entitled to other leaves while on strike?**

**A:** UNA's position is that pre-booked leaves that fall during a strike should be honoured. For example, if an Employee commences a five-day bereavement leave and a strike commences the following day, UNA expects the Employer to honour the entire five-day bereavement leave period. However, no new leave requests are likely to be approved once a strike has commenced. Please see the following question regarding the special case of maternity/parental leave.

**18) Q: Am I entitled to commence maternity/parental leave while on strike?**

**A:** UNA's position is that maternity/parental leaves (and associated Employment Insurance (EI) benefits) that commence before a strike should be unaffected by the strike. In limited circumstances, Service Canada may also approve maternity/parental EI benefits applied for during a strike, but applicants must generally show they were making plans for the maternity/parental leave prior to the strike commencing. Call Service Canada for more detailed information. Striking workers remain Employees during a legal strike. As a result, UNA understands that Employees will be entitled to commence their maternity/parental leave even while striking (and they should provide notice of such a leave in writing to their manager). However, EI benefit eligibility may be impacted.

**19) Q: Can people with work visas be deported (e.g. Internationally Educated Nurses on a work visa)?**

**A:** According to the Canadian government this is a question that has not arisen in Canada. Their position is that as long as the nurse remains in Canada during the strike and the work visa has not expired the nurse will not lose their visa. If the nurse, however, commits an indictable offense such as assault, their work visa will be reviewed by Immigration. If a nurse is in Canada on a work visa and is considering involvement in a strike, the nurse should contact Citizenship and Immigration Canada and enquire about their particular situation. UNA is unaware of any nurse who was deported as a result of the last illegal hospitals' strike.

**20) Q: What if someone else takes my job?**

**A:** Section 89 of the Labour Relations Code states:  
No person ceases to be an employee within the meaning of this Act by reason only of the person ceasing to work as a result of a lawful lockout or a lawful strike.

The Essential Services Agreement states:

10. PROHIBITION ON REPLACEMENT WORKERS

10.01 During a strike or lockout at a site, the Employer shall not:

- (a) permit Employees in the bargaining unit on strike or lockout to work at

that site unless they are a designated essential services worker;

- (b) increase the scope of work performed by volunteers or contracted out services at that site;
- (c) assign work that would normally be performed by an Employee in the bargaining unit that is on strike or lockout to other Employees at that site who are members of other bargaining units; or
- (d) hire additional persons at that site to perform work normally performed by an Employee in the bargaining unit that is on strike or lockout. In the event that insufficient Designated Essential Services Workers and/or NUEE personnel are available to deliver Essential Services, the parties agree to meet and discuss.

**21) Q: During our strike, how will I know if a deal is reached and how would I vote in that situation?**

**A:** The Negotiating Committee will inform all Locals that a tentative agreement has been achieved. A tentative agreement would be subject to ratification by the membership.

Regular updates will be available on the UNA App and at [www.una.ca](http://www.una.ca). If you have questions, please contact your Local Executive.

## DESIGNATED ESSENTIAL SERVICES WORKERS (DESW)

**22) Q: What is a Designated Essential Services Worker (DESW)?**

**A:** A DESW is an in-scope nurse who has been selected by their Local to attend work to provide essential services. The Employer must use the services of its Non-Union Exempt Employees (NUEEs) to the fullest extent possible before requesting that UNA assign a DESW to work. For example, Unit Managers who are RNs must be used to provide patient care – where qualified – before requesting a DESW.

Locals are strongly encouraged to rotate members through the DESW available shifts. Locals will be

responsible for determining which Employees will be essential on each shift. Example: Employee B may be assigned to work on Monday and then be on strike Tuesday.

**23) Q: Are DESWs entitled to strike pay?**

**A:** On days Employees are a Designated Essential Services worker they do not receive strike pay, however they are paid according to the Collective Agreement.

For this reason, it is important to rotate which Employees are DESWs.

## QUESTIONS ABOUT ILLEGAL STRIKES

**24) Q: If a strike is deemed illegal, are there penalties?**

**A:** Yes, an illegal strike can lead to financial penalties against UNA, its Locals and/or members. UNA will cover legal costs related to negotiations and strike action authorized by UNA.

There may also be court-ordered fines levied for contempt of court, if a court orders the Union or its members to return to work and they do not comply. It is possible the Government would expect regulatory bodies (like the CRNA and the CRPNA) to intervene, and Employers may also

want to impose discipline up to and including dismissal.

Also, the Government could pass new laws at any time.

**25) Q: Can I lose my job if I participate in an illegal strike?**

**A:** Yes; however, UNA takes the position that until the jobs of all UNA members are secure, no UNA member will return to work. For example, in the 1988 illegal strike by hospital nurses, UNA insisted on “amnesty” for all members as part of the Memorandum of Agreement.