Appendix C
Collective Bargaining
Frequently Asked Questions

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This document contains summary answers to frequently asked questions about Labour Relations, collective agreements, and the collective bargaining process. Most answers are derived from the Québec Labour Code.
Right of association

1. **What is the right of Association?**

Every employee has the right to belong to the association of her/his choice, and to participate in the formation, activities and management of such an association.

Certified associations

2. **What is a certified association?**

A certified association is a union of employees who possess the sole authority to negotiate and apply a collective agreement on behalf of all employees of a particular type in an organization.

An association, or union, is certified by the Commission des relations du travail as the exclusive representative of a certain type of employee.

For example, the Concordia University Part-time Faculty Association is the association certified to act as the bargaining agent for all part-time faculty members at Concordia University.

3. **Are Concordia’s employee associations and unions certified?**

Most are certified. Of the associations and unions that represent Concordia’s faculty and employees, only The Association of Concordia University Management and Administrative Employees (ACUMAE) is not a certified association. This is because it includes persons employed as managers, supervisors, or representatives of the University in its relations with its employees. These people may not, under the provisions of the Quebec Labour Code, be part of a certified association.

ACUMAE is, however, a bargaining agent.

4. **What is a bargaining agent?**

A bargaining agent is either a certified association, or a union of employees recognized voluntarily by the employer as the exclusive representative of that group for the purposes of collective bargaining.
5. **Who are the bargaining agents for the different Concordia unions?**

Please visit the [Concordia web pages](#) to view the different bargaining agents.

**Collective bargaining**

6. **What is collective bargaining?**

Collective bargaining is a process of negotiation between an employer and a certified association, union or bargaining agent to produce a first collective agreement or the renewal of a previous collective agreement.

7. **When does the bargaining process start?**

Either party may give notice to bargain within ninety (90) days of the date the agreement is due to expire, or during any other time period specifically provided for in the agreement. In either case, the union and the employer must provide a minimum of eight (8) days notice from the giving of the notice to the first meeting, unless the parties agree to another time period. The bargaining process starts when notice is received by the other party. If no notice is given, notice is deemed to have been received on the expiry date of the agreement.

The parties may also agree to begin negotiations at a mutually agreed upon time that may differ from the terms set out in the agreement.

8. **What happens at the bargaining table?**

At the initial stage of bargaining, typically both parties participate in an exchange of proposals or items for discussion. The proposals presented by the employer and the bargaining agent outline the items each party wishes to amend, delete or add to the collective agreement or agreement. In subsequent meetings, the parties continue their discussions with the objective of reaching an agreement. Both parties have an obligation to carry on negotiations diligently and in good faith.

9. **What is Concordia’s approach to bargaining?**

The bargaining teams at Concordia place an emphasis on co-operation and working together to come to an agreement on issues. Bargaining is focused on discussion, problem-solving and finding shared solutions that will best meet the interests of all parties.

10. **What happens to the terms of a collective agreement after its expiry date?**
The collective agreement remains in effect until the parties exercise the right to strike or lock-out, or, if the agreement provides for it, it remains in effect until a new agreement is signed.

At Concordia, all agreements indicate that once expired, they will remain in effect until new agreements are signed.

11. What is a dispute?

A dispute is a disagreement or a difference that arises in connection with the entering into, renewing or revising of a collective agreement.

12. What happens if the parties are unable to agree on the terms of a collective agreement?

There are a few options:

1. Either party may ask the Ministry of Labour for the assistance of a conciliator. Negotiations would then continue in the presence of the conciliator whose role is to facilitate a settlement.

2. The parties may also submit their dispute to an arbitrator:
   a. In the case of a first collective agreement, following the unsuccessful intervention of a conciliator, either party may submit the dispute to an arbitrator. The arbitrator is required to first attempt to facilitate a settlement between the parties, failing which s/he will inform the parties that s/he will determine the content of the collective agreement. From that moment a strike or lock-out is prohibited. The arbitrator's award becomes the collective agreement between the parties and may be in effect for a period of one (1) to three (3) years.
   b. For all other agreements, the parties must agree and request the Minister of Labour to refer the dispute to an arbitrator. A strike or lock-out is prohibited from the moment the Minister refers the dispute to arbitration. The arbitrator's award becomes the collective agreement between the parties and may be in effect for a period of one (1) to three (3) years.

3. If neither of the parties request conciliation or arbitration, they may exercise their right to strike or lock-out.
13. **What is conciliation?**

Conciliation is a service offered by the Ministry of Labour to assist parties in reaching agreement. Either party may apply for conciliation at any time during the bargaining process. Both parties are then obligated to attend meetings convened by the conciliator. Although very exceptional, the Minister of Labour may decide to begin a conciliation process without a request from either party.

14. **What happens if, during conciliation, the parties are unable to agree on the terms of a collective agreement?**

The parties may choose to apply for arbitration, as described above or may exercise their right to strike or lock-out.

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**Labour agreements**

15. **What is a collective agreement?**

A collective agreement is a written agreement between one or more bargaining agents and one or more employer or employers’ associations about conditions of employment.

16. **Who is a party to a collective agreement?**

Only the certified association, union or bargaining agent and the employer may be a party to a collective agreement. Employees are not party to the collective agreement.

17. **In which language must a collective agreement be written?**

In Québec, to be valid, a collective agreement, or any part thereof (letters of agreement, appendices, etc.) must be written in French.

18. **When does a collective agreement take effect?**

A collective agreement or any amendment to it, takes effect on the date it is filed with the Ministry of Labour. It takes effect retroactively to the date provided in the agreement, or if no date is provided, to the date of signing of the agreement.
19. **What is the duration of a collective agreement?**

A collective agreement must have a minimum duration of one year. However, there is no maximum duration, except for a first collective agreement, where the maximum duration is three (3) years.

20. **Can there be more than one Collective agreement with an employer?**

Yes, where there is more than one bargaining unit with that employer. However there may only be one collective agreement for each bargaining unit.

21. **Which provisions may a collective agreement contain?**

A collective agreement may contain any provision related to working conditions and any provisions pertaining to Union rights, grievance resolution, seniority and movement of personnel.

Collective agreements may not contain provisions that are contrary to public order or prohibited by law. Such provisions would be null and void; however this would not invalidate the other clauses of the collective agreement.

22. **What happens when a collective agreement is silent on a particular subject?**

The employer has discretion to exercise its right to manage its operations.

23. **What condition must a certified association or union meet before it may sign a collective agreement?**

In order for the collective agreement to be signed, the majority of the members of the certified association or union who exercise their right to vote must authorize it by secret ballot.

**Strike and lock-out**

24. **What is a strike or lock-out?**

A strike is a concerted cessation of work by a group of employees. A lock-out is the refusal by an employer to give work to a group of employees in order to compel them to accept certain conditions of employment.

25. **When can the parties legally strike or lock-out?**
In order to be in a legal strike position, an employee association or union must be a certified association. A strike may begin ninety (90) days after one party (either the employer or the certified association or union) receives the notice to bargain sent by the other party or, if no notice is sent, ninety (90) days following the expiry of the collective agreement. A lock-out is legal whenever it applies to a certified association or union that has the right to strike.

26. **What condition is necessary for a strike to be declared?**

No strike may be declared unless, the majority of the members of the certified association or union who exercise their right to vote authorize it by secret ballot.

The association or union shall take the measures necessary, having regard to the circumstances, to inform its members, at least forty-eight (48) hours in advance, that the ballot is to be held.

27. **Who can carry on work of the bargaining unit during a strike or lock-out?**

An employee, who is a member of the bargaining unit that is on strike or locked-out, only when an agreement is reached to that effect between the Employer and the Union.

A manager, supervisor or Employer representative, only if that person has been employed before the beginning of the negotiation stage. (The negotiation stage begins on the day of the Employer’s receipt of the notice to bargain or the day it is deemed to have been received.)

28. **Can employees belonging to a bargaining unit on strike or locked-out continue to work during the strike or lock-out?**

No. Employees included in a bargaining unit on strike or locked-out may not continue to work in their own establishment or bargaining unit, except as agreed between the Employer and the Union.

Employees included in a bargaining unit on strike or locked-out may not work in another bargaining unit during the strike or lock-out.

29. **Can employees belonging to other bargaining units carry on the work of employees on strike or lock-out?**

No. Employees from another establishment or included in another bargaining unit may not perform the work of employees in a bargaining unit on strike or lock-out.
However they continue to do their own work as usual, depending on the Employer’s decision to remain operational.

30. Is picketing governed by the Labour Code?

No. As a general rule, peaceful picketing for the purpose of informing the public is accepted. However, intrusions, intimidation of persons crossing the picket line, threats, obstacles to circulation in or out of the employer's premises, slanderous or false statements are not allowed.

Grievances

31. What is a grievance?

A grievance is any disagreement regarding the interpretation or application of a collective agreement.

32. Who may file a grievance?

This is determined by the collective agreement. Typically, a grievance may be filed by the aggrieved employee, the certified association or union, or the employer. The certified association or union does not require the employee’s authorisation to file a grievance on the employee’s behalf.

33. How are grievances resolved?

Grievances are resolved in the manner provided for in the collective agreement. Failing resolution, a grievance may be submitted to an arbitrator chosen by the parties. If the parties do not agree on the choice of an arbitrator, the Minister of Labour appoints an arbitrator.

34. What is grievance arbitration?

Grievance arbitration is the presentation of a grievance at a hearing in front of an arbitrator, who decides how to resolve the disagreement. The arbitrator’s role is limited to interpreting the collective agreement, and the legislation to the extent necessary to resolve the grievance. The arbitrator may not amend or modify the collective agreement.

35. Is an arbitrator’s decision final and binding?

Yes, the arbitrator’s decision is final and binding on the parties. However, in certain cases where the arbitrator has exceeded her/his jurisdiction, has failed to
exercise her/his jurisdiction or has rendered a decision which is manifestly unreasonable, the parties may ask for a revision in Superior Court.

**Negotiations at Concordia**

36. **What is the current status of negotiations with my union?**

Please visit the [Concordia web pages](#) and select your union to see the status of negotiations.

37. **Where can I find my collective agreement?**

Please visit the [Concordia web pages](#) and select your union to see your collective agreement.

38. **I have some questions I would like to ask about Concordia’s position. Who can provide the answers?**

Please email your questions to [labour@concordia.ca](mailto:labour@concordia.ca). We plan to update this Frequently Asked Questions document periodically to address new questions. If legal constraints prevent us from answering directly, we will say so.

39. **What is the government salary policy?**

The government salary policy (GSP) is the percentage increase that is applied to salary scales for government employees. Normal progression (steps/increments) through the salary scales continue to be applied as established.

For example, GSP in recent years was as follows: 
1/04/2010: .5%; 1/04/2011: .75%; 1/04/2012: 1.00%; 1/04/2013: 1.75%; 1/04/2014: 2.0%; 1/04/2015: Cost of living adjustment to a maximum of 1%.

40. **Now that we have a new government, will the government salary policy change?**

At this time we have not received any official notification from the Government of Quebec of any changes to government salary policy.

41. **Why can it sometimes take so long to negotiate an agreement?**
The nature of negotiations is that they are complex and involve much discussion and debate. Finding solutions that are in the best interests of all parties, and that are financially viable and sustainable often takes time.

Concordia is committed to working together with the bargaining agents to continue to improve the process to align the cycle of negotiations with the expiration of the agreements, and to advance negotiations.

42. Why can’t the Concordia administration keep members directly informed of the progress of the negotiations?

During the collective bargaining process, employers are not permitted to negotiate directly with members of the concerned bargaining unit. As the exclusive bargaining agent for its members at Concordia, each association or union is responsible for negotiating on behalf of its members.

While the university cannot negotiate directly with the members, we have a responsibility to keep the Concordia community abreast of the progress of negotiations.

To this end, we will periodically post information on the Human Resources section of the Concordia website.

We may also distribute information, on occasion, to all members of the Concordia community informing them that new information is available on the website.

43. Who are the members of Concordia’s collective bargaining team with my union?

Please visit the Concordia web pages and select your union to see your view the members of the bargaining team.