

FB Group Strike Votes: Frequently Asked Questions

The Border Services (FB) bargaining unit consists of over 9,000 PSAC-CIU members at the Canada Border Services Agency (CBSA), responsible for protecting Canada's borders and the planning, development, delivery, inspection and control of people and goods entering Canada.

FB members have been without a contract for nearly three years, with our collective agreement having expired in June 2018. At the table, our bargaining team has been fighting for key issues, including parity with other law enforcement personnel across Canada, better protections against harassment and discrimination, and a fair remote work policy for our non-uniformed members.

CBSA's refusal to budge on these core demands led the FB bargaining team to [declare impasse in December](#). We've submitted and presented our [dispute to the Public Interest Commission](#) and are awaiting their recommendation. In the meantime, we're holding a vote seeking a strike mandate from the membership to give our bargaining team the leverage we need to call a strike if necessary.

Any questions you may have about strike votes or strike action can be answered at the virtual vote information sessions and strike preparation courses that will take place before you vote. However, to provide you with as much information as possible ahead of time, we have compiled key questions and answers for you.

About strike votes

- **What does a strike vote mean?**

The FB group will be conducting an electronic strike vote across the country starting June 16. A 'yes' vote means giving the union a mandate to authorize strike action as a possible escalation if the employer does not come back to the table to address our bargaining demands.

- **When and where exactly will strike votes be held?**

We are in the process of finalizing planning around all strike votes, which will be held virtually to ensure the safety of all members and staff. We will provide you with the schedule for mandatory voting information sessions in the coming days, well ahead of time. Each voting information session will also include a question-and-answer period.

- **How do I vote?**

Under regulation 15 of the [PSAC Constitution](#), every member must attend a mandatory information session (normally about 10-15 mins) to be eligible to vote. This is so we can ensure that everyone has the information they need to make an informed decision and give you an opportunity to ask questions. You can find a list of the information sessions available in your region and register for at psacunion.ca/fb-strike-votes.

Once you have attended an information session, you will be able to vote by phone or online through Intelivote. You will receive an email from an “intelivote.com” address on June 14 that will include voting instructions and your PIN to vote. If you have not received this email by June 15, please [contact your regional office](#).

- **What constitutes a successful strike vote?**

A successful strike vote means that a simple majority (50 per cent +1) of employees in your bargaining unit who cast a ballot voted in favour of strike action.

- **Will we have strike preparation courses?**

PSAC is committed to ensuring members are informed about and prepared for a strike. Virtual strike preparation courses will begin June 14. Please register now at psacunion.ca/fb-strike-votes.

- **When would we go on strike?**

A successful strike vote does not necessarily mean we will go on strike.

CBSA won't budge unless we apply organized pressure. That's why PSAC National President Chris Aylward has authorized a strike vote.

A strike mandate will give the FB bargaining team the leverage they need because the Trudeau government will want to avoid a labour disruption — especially after the U.S. border has been closed for more than a year. Moreover, they can't risk even more disruption while they're in a minority government situation.

A strong strike mandate is the best way to reach a settlement quickly, and without necessarily having to take strike action.

- **What is “strike action” and how long would a strike last?**

Any strike activity would be well planned out by PSAC and CIU, taking into consideration strategic activities and the health and safety of members during the pandemic.

If members vote for a strike and PSAC is still unable to reach an agreement with the employer at the bargaining table, PSAC's national president can authorize a strike.

There are many kinds of strikes:

1. **Work-to-rule**

A work-to-rule is when workers obey all the laws and rules applying to their work (i.e., through legislation or the collective agreement), but perform their work more slowly or

follow “the letter of the law” to stall productivity.

You have the right to do this under labour legislation. In a [2009 decision](#), the Federal Public Sector Labour Relations and Employment Board (FPSLREB) also indicated that Border Services Officers (BSOs) aren’t required to collect taxes and duties if taking work-to-rule action.

2. **General strike**

A PSAC general strike is a cessation of work by all PSAC members in a bargaining unit. (General strike pay provisions apply.)

3. **Rotating strike**

A rotating strike is a series of surprise, up to day-long work stoppages of all bargaining unit members at various strategic geographic locations. (e.g., Ontario members on Monday, Quebec members on Tuesday, etc.) (General strike pay provisions apply.)

4. **Strategic strike**

A strategic strike is a work stoppage by a limited number of members of a bargaining unit at a limited number of locations. The strategic strike includes up to 10 per cent of the members of a bargaining unit. Strategic strikes are designed to have the greatest impact on the employer’s operation. Strategic strikes are approved by the leadership of the union based on strategic plans of action. (Strategic strike pay provisions apply.)

PSAC's leadership will develop a plan and determine when, where and for how long strike actions will happen. For more information on the PSAC strike structures, please see the [PSAC Strike Manual](#).

Pay during a strike

- **Will the employer stop my pay during a strike?**

According to current Treasury Board policy, pay should not be interrupted for striking employees. Instead, they would recover the pay from employees after the strike. This was true for a recent strike by PSAC members working for the National Battlefields Commission at the Plains of Abraham in Quebec City. The employer, however, could change this policy at any time.

PSAC would address how this is done in the ‘return to work’ protocol that is always negotiated as part of the settlement when it is achieved.

- **Will I receive strike pay?**

Strike pay for both regular and strategic strikes are governed by Regulation 6 in the [PSAC](#)

Constitution. Members are expected to provide a minimum of four hours of work per day in support of the strike to qualify for strike pay.

Members who usually work 20 hours or more each week will receive the strike pay below:

Members who work in	Per day	For a maximum per calendar week of
Yukon	\$103.20	\$516.00
Northwest Territories	\$117.35	\$586.75
Nunavut	\$141.00	\$705.00
Elsewhere in Canada	\$75.00	\$375.00

PSAC members who usually work less than 20 hours per week will receive the strike pay below.

Members who work in	Per day	For a maximum per calendar week of
Yukon	\$72.24	\$361.20
Northwest Territories	\$82.15	\$410.75
Nunavut	\$98.70	\$493.50
Elsewhere in Canada	\$53.00	\$265.00

In the case of a ‘strategic strike’ — that is, a targeted strike involving no more than 10 per cent of the bargaining unit and lasting no longer than two weeks — strike pay will be 60 per cent of a member’s gross salary.

Some PSAC locals may choose to top up members’ strike pay.

- **Is strike pay taxable?**

Strike pay is non-taxable.

- **I’m afraid of being Phoenixed if I go on strike. How can I be sure my pay won’t be interrupted?**

The best way to make sure we aren’t forced to strike is to make sure we are prepared for one and get a strong strike mandate. That way the employer understands we’re ready to fight for what we deserve.

Some members have concerns that a strike action will generate Phoenix pay problems when we go back to work. You can be sure the employer has the same worries — times 10. That’s why we are confident CBSA will move to a settlement if PSAC members give the FB bargaining team a strong strike mandate. The employer can’t risk adding to the backlog of Phoenix cases and that’s why we have more leverage than ever.

But in the event we do go on strike, and there are Phoenix issues on return to work, PSAC has already negotiated emergency and priority pay for anyone with pay issues. Nobody can be forced to go without pay.

- **What if I can't afford to go on strike?**

If the government chooses to change its policy and stop pay during a strike, your union has a lot of support systems in place to make sure you never go without pay while on strike.

During a general strike, every member will receive strike pay of a minimum of \$75 per day.

You can also apply for PSAC's Hardship Fund if you run into a difficult financial situation during a strike or lockout. The fund offers emergency financial assistance to workers in financial distress. A hardship fund is run by committees in each region that handle requests for assistance.

Lastly, because of the strong impact any strike action by our members would have on CBSA, a strike is unlikely to last long.

Dental and other group benefit plans

- **Will I have access to dental and other benefits coverage when on strike?**

Yes. Based on the employer's current policy, employees on strike will continue to receive coverage under the Public Service Group Benefit Plans. However, Treasury Board is entitled to change this approach.

Leave

- **Can my already approved leave be cancelled once strike action is called?**

The employer may choose to cancel your leave even if it has already been approved, because no collective agreement is in force during a strike.

- **What if I'm already on leave when strike action begins?**

Based on the employer's current policy, employees in the striking bargaining unit who are on leave when the strike begins may be allowed to continue leave, but additional leave is not likely to be approved.

- **What about sick leave and "other leave with or without pay?"**

Employees in the striking bargaining unit who are on sick leave or "other leave with or without pay" before the start of the strike should be permitted to continue leave, subject to continuing satisfactory proof that they meet the conditions for the granting of the leave.

- **If my bargaining unit is on strike and I am presently on maternity or parental leave, am I still entitled to this leave? What happens to my top-up?**

Your entitlement to maternity or parental leave is established by legislation and therefore continues during the period of a strike. Your entitlement to the salary top-up is established under the collective agreement and during the period of a strike, no collective agreement is in

existence. The employer could therefore choose not to pay the top-up, however the employer's own policy states that employees on "other leave with or without pay" prior to the start of the strike should be permitted to continue leave.

- **What happens if I am receiving disability insurance before strike action was called?**

The employer's manual stipulates members of any bargaining unit on strike who are on sick leave or any other paid or non-paid leave, before the beginning of a strike, should be authorized to take their leave, but must keep on providing justification for their leave.

Acting positions

- **Do those in acting positions outside the bargaining unit return to their substantive position during a strike?**

No. You will continue in your acting position during the strike unless the employer decides otherwise. Furthermore, you are part of the bargaining unit in which you are acting, not the bargaining unit of your substantive position. Therefore, if you are currently acting outside of the FB group, you would not be eligible to participate in the strike vote or to take strike action.

Essential employees

- **What does it mean to be an essential employee?**

An essential employee is one who occupies a position that has been designated as providing an "essential service."

Employees identified as occupying essential positions are prohibited from participating in any strike. Occupying an essential position means you cannot stop work and engage in the strike, but you remain able to support your co-workers before and after work, and during lunch breaks, by joining them on the picket line.

Unlike essential designations that apply to a whole position, the Essential Services Agreement (ESA) identifies services/duties that are necessary for the safety and security of the public. If a new ESA is not reached before a strike, the previously agreed-upon ESA from fall 2017 will take effect. It is therefore possible to be in a position where none of your duties or where only some of your duties are deemed essential.

A FPSLRB [decision from 2009](#) clarified which services performed by Border Services Officers (BSOs) are considered necessary for the safety of the public, and therefore essential.

- **What duties are NOT considered essential?**

The following duties have been deemed non-essential by the FPSLRB. In the event of a strike, members who have been designated as essential may refuse these duties. However, if ordered to carry out these duties by the employer, members should talk to their local shop steward and

may choose to file a grievance.

- Assessing and collecting duties, taxes, fees and fines
- Providing information to educate travellers, importers and exporters and to encourage voluntary compliance
- Responding to enquiries, concerns and complaints
- Analyzing data and information for inclusion in databases
- Completing briefing notes, technical reports, client files, statements and seizure reports
- Maintaining effective relations, interactions and exchanges with clients, stakeholders and law enforcement agencies

The example above applies only to BSOs. Essential and non-essential duties can and will vary depending on the specific position. In all cases, however, the standard is the same: Duties are considered essential if they are necessary for the safety and security of the public.

- **What should essential employees do when faced with a picket line?**

Employees occupying essential positions will be provided with an electronic letter by the employer notifying them of their essential status. Each branch/local will be provided with lists, so strike captains will know who needs to report to work. Essential employees can also show the letter to the picket captain (via tablet, smartphone, or printed copy).

The picket line cannot impede essential workers from attending work. However, you are permitted and encouraged to join the picket line up until it is time to go into work, that includes before and after work and during lunch breaks.

As an essential employee you are entitled to work under the frozen terms and conditions of employment in place when the notice to bargain was served.

- **What should I NOT do when there is a strike of my bargaining unit?**

Since you are occupying an essential position, you cannot legally withdraw your services from work. But you should not perform any of the work ordinarily performed by the people who are on the picket line.

Remote workers

- **Can remote workers strike?**

Yes. Continuing to work remotely is considered crossing the picket line and is a violation of section 25(6)(n) of the [PSAC Constitution](#). Members in this situation should join the picket line at the location they would normally work, unless advised otherwise by the union.

If they normally work remotely because of an inability to travel to their worksite, they may reach an alternative agreement with their local union to support the strike without having to travel to their worksite.

Term employees

- **Can term employees strike?**

If an employee's term is for a period greater than three months, or they have been working on consecutive term appointments for longer than three months, then the answer is yes. Not only can they strike, but they should do so if a strike is declared.

Term employees for three months or more are employees in the bargaining unit and ARE covered by the collective agreement.

Language training

Employees on language training when a strike begins may remain on language training if they wish. Employees scheduled to commence language training should be permitted to proceed as planned.

Pension entitlements

Periods while a member participates in a strike may not count as pensionable service. Also, the periods participating in a work stoppage cannot be "bought back." However, these periods are not considered as "breaks" in pensionable service for the purposes of calculating a member's "five consecutive years of highest paid service."

The impact on the future pension for a member who participates in a strike is to push back — by the number of days on strike — the date on which he or she completes the required years of service to qualify for a pension.

There will be no impact on the average salary on which the pension will be calculated for members whose days on strike do not fall within their five consecutive years of highest salary.

Average salary for pension benefit purposes is always based on the member's best five consecutive years of highest paid salary. Any salary lost due to a strike during the final average salary period is accounted for by extending back in time the average salary period so that five years of paid earnings are used in the calculation.

For example, if a member had been on strike for 10 days during the relevant period, average salary would be based on earnings paid during the best consecutive five years and 10 days of employment. It should be noted that average salary is based on five consecutive years of pensionable service, rather than on five continuous years of service.

When contemplating retirement, members should be encouraged to obtain a copy of their exact record of pensionable service before deciding on their retirement date, to ensure that they have the required service for the pension option on which they are counting.

Next Steps

If you have any other questions about the strike vote, please contact your branch president, your [PSAC regional office](#), or refer to the [PSAC Strike Manual](#). You can also participate in a strike preparation course, which will expand on many of these themes in more detail. You can find scheduled courses at psacunion.ca/fb-strike-votes.

We make tremendous gains when we exercise our right to strike. It's one of our most effective tools to ensure the employer understands we deserve respect and listens to our demands. Keep these things in mind when you speak with your family, people in your community, and other union members. We are stronger together.