

Taking Leave for Union Business

Guidance for CAPE ECs and TRs

June 2026

What is union leave?

Union leave is a contractual right to approved time off from work to participate in union-related activities. All workers may participate in union activities in their off-duty hours, but union leave gives you the ability to perform union business that may be necessary during the regular workday.

Union leave is a cornerstone of the collective agreement because it gives effect to our *Charter* freedom of association, enabling workers to pursue collective interests through union activity.

Types of Union Leave

- Collective bargaining meetings or preparations (EC14.10, 14.11 / TR10.05, 10.06)
- Labour-management consultations or committee meetings (EC14.12 / TR10.07)
- Hearings of the Labour Board (FPSLRB) as a party, representative or witness (EC14.01, 14.05 14.06 / TR10.01-10.03)ⁱ
- Grievance hearings before management, as Grievor or representative (EC14.07-14.09 / TR10.04)
- Union training or external meetings such as the CLC (EC14.13-14.15 / TR10.08)
- Election or appointment to a full-time union official position (EC14.16 / TR10.10)ⁱⁱ

Operational Requirements

Most typesⁱⁱⁱ of union leave are subject to one condition - that “operational requirements permit.” Operational requirements are not defined in the EC or TR collective agreements but are instead interpreted by labour tribunals and courts.

Many managers misconstrue “operational requirements” to mean they have complete discretion to approve or deny union leave as they see fit. This is not the case.

Union leave, like any other leave subject to operational requirements, calls for a case-by-case assessment of the impact of the intended absence on genuine operational needs that cannot be managed through temporary alternative arrangements^{iv}.

Adjudicators have held that chronic staffing shortages^v, or the need for overtime^{vi} cannot be used as artificial barriers.

Operational inconvenience or cost alone does not justify denying leave outright^{vii}. After all, any worker taking time off for any reason will have some impact on operations.

How to Request Union Leave

Members should first confirm that their planned union activity is covered by one of these leave provisions and prepare their documentation. You should make your request to your direct supervisor and give as much notice as possible, sufficient for management to make alternate arrangements.

If you make your request verbally, be sure to follow up in writing and confirm when you can expect a response. If approval is withheld indefinitely, it is effectively a denial.

If Your Request Is Denied

- Request the decision from management in writing, with reasons.
- Contact your Labour Relations Officer (LRO) via representation@acep-cape.ca.
- Inform the union officer leading the activity you planned to join.
- Create a record of correspondence and a chronology.
- Some requests may need to be adjusted to respect a legitimate operational requirement.

Final Thoughts

Union leave is a contractual right for ECs and TRs. Management agreed to these terms in the collective agreements and must make reasonable adaptations to ensure workers have access to those rights.

At the same time, we must be wary of managers who may discriminate and unreasonably deny requests precisely *because* they are tied to union activity. Speak to your LRO if you suspect anti-union discrimination is in play by emailing representation@acep-cape.ca.

Disclaimer

This document is intended to provide general information only and should not be relied on as legal advice. If you require specific advice regarding labour relations and/or employment related issues, please contact your CAPE Labour Relations Officer.

Notes & References

ⁱ When called by the FPSLRB, an Arbitration Board, a PIC or an ADR process, the requisite leave is not subject to operational requirements.

ⁱⁱ Leave without pay to take on a full-time elected or appointed union position is not subject to operational requirements.

ⁱⁱⁱ See above.

^{iv} *Canada (Attorney General) v. Degaris*, 1993 CarswellNat 239. FCJ 1011

^v *Noakes v. Treasury Board (Transport Canada)*, 1981 PSSRB (166-2-9688)

^{vi} *Treasury Board (Transport Canada) v. MacGregor*, 1992 PSSRB (166-02-22489)

^{vii} *Burgess v. Treasury Board (Department of Indian Affairs and Northern Development)*, 2004 PSSRB 164 (166-02-32094)