

# FAQS

不列颠哥伦比亚省 | 建筑业

## 如何提出不公平劳工对待的投诉

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工会为培训和沟通之目的，不论是在工会内部或与其他感兴趣的团体（例如其成员或者工会所代表的非成员），亦可以同样的方式使用本网站所载资料。

詳情請致電 LabourWatch. 免費熱線  
**1-888-652-2687**

## 概述

目前，在卑詩省，納稅人稅金或工會會費中沒有資助“僱員顧問或督察專員”的經費，用於幫助處理僱員關於工會的疑問。如果您對工會的某一行為存有疑問，並且您的僱主無法與卑詩省勞工關係委員會及工會溝通，您需要獨自或與律師一起，向工會提出或前往卑詩省勞工關係委員會解決。一般情況下，不鼓勵僱員就某一工會行為向僱主提出要求。

同樣的，卑詩省規定不鼓勵僱主幫助員工針對不恰當勞工行為提出投訴。同時，也不會幫助員工繳納律師費，因為僱主對工會提出不公平勞工務實的投訴可以有很多。這種情況比較少見，所以請參閱卑詩省不公平勞工務實常見問題中的問題1——實際上，需要打印並閱讀不公平勞工務實常見問題中的所有9個問題。

卑詩省勞工關係法中關於不公平勞工務實的內容很多，但大多與僱主和工會之間的關係有關。我們將僅關注於僱員與工會之間的關係。工會會對需要向僱主提出不公平勞工務實投訴的僱員提供重要幫助。對於各種工會向僱員提供的重要信息和資源，LabourWatch不再重複。

## 獲取表格

卑詩省勞工關係委員會為僱員提供一種專用表格，用於提交不公平勞工務實。LabourWatch也將這一表格提供在“實務指南”部分。

鑑於普通僱員在理解法規（如卑詩省勞工關係法）方面可能存有困難，填寫表格時，需要您了解違反的是卑詩省勞工關係法中的哪部分內容。我們已將從勞工關係法中選錄的內容列在本文件的結尾。卑詩省勞工關係委員會的網站中針對不公平勞工務實設立了一個很有幫助的條目。

“實務指南”用於處理的情形僅包括：您認為工會針對正在加入工會的僱員或工會實際代表的會員僱員的行為已違反卑詩省勞工關係法。

## 填写表格

表格中的前几项比较容易，需要填写姓名、地址、电话和传真号码等。如果您感到填写“不公平劳工实务”太复杂，请与您所在地区的雇主顾问联络——参见我们网站中的联络条目。表格空白受限，如有需要，请自行附页。

您需要陈述您认为卑诗省劳工关系法中被违反部分的内容，详细内容参见本文件的结尾部分。

应对照本条目完成“不公平劳工实务”投诉。

## 提出不公平劳工实务投诉的时机

卑诗省劳工关系委员会规定，不公平劳工实务投诉应在“你所知道的或劳工委员会应当知道的”导致投诉的事件发生日之后不迟于90日内提出。如果是在工会成立过程中，由于可能对成立过程产生影响，所以要尽早提出。在工会解散过程中也是如此。

## 提交表格

您必须将表格提交给卑诗省劳工关系委员。委员会的网站就提交表格的时间和方法提供了全面的说明。

您可通过传真、面呈、快递或挂号信等方式发送您的解散文件（您的申请、个人表格和集体协议复印件等）。但最佳方式是面呈或快递。

一般情况下，我们会建议采用传真方式。但条例中规定，如果您通过传真发送文件，您仍需在3日内以快递或面呈方式提交原件。

## 下一步内容？

如果卑诗省劳工关系委员支持某项投诉，则可能要求采取的补救措施不是处罚违反方，而是使受到影响的雇员恢复到此类违反没发生时其所处的状态。补救措施将包括对雇员遭受的损失进行补偿、恢复雇员的职位或撤销所采取的惩罚措施。这可能导致工会批准申请被拒，或因工会得不到足够的合法会员参与投票而无法表决。

## UNFAIR LABOUR PRACTICE COMPLAINT

- *To ensure timely processing of the application please provide complete details and supporting documents*
- *The Labour Relations Board treats unfair labour practice complaints filed under these provisions of the code as expedited matters. Processing of these complaints may include settlement meetings/discussions with Board Officers and scheduling of an expedited hearing.*

### FILING SECTION(S)

This complaint is filed under Sections(s) 5

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(Please check box(es) as applicable, and provide full details on page 3)

Are you asking for an expedited hearing to be held within three calendar days under Section 5(2) of the Code?

Yes  No

### COMPLAINANT INFORMATION

- INDIVIDUAL, TRADE UNION, EMPLOYER OR EMPLOYER'S ORGANIZATION MAKING THE COMPLAINT.

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

Postal Code: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Cell No: \_\_\_\_\_ E-mail: \_\_\_\_\_

Name of Contact Person: \_\_\_\_\_

Address (if different from above): \_\_\_\_\_

\_\_\_\_\_

E-mail: \_\_\_\_\_

**ADDITIONAL COMPLAINANTS**

Name:	_____
Position:	_____
Address:	_____ City: _____
Postal Code:	_____ Telephone: _____
Cell No:	_____ E-mail: _____
Name:	_____
Position:	_____
Address:	_____ City: _____
Postal Code:	_____ Telephone: _____
Cell No:	_____ E-mail: _____

**RESPONDENT(S) INFORMATION**

• INDIVIDUAL, TRADE UNION, EMPLOYER OR EMPLOYERS' ORGANIZATION WHO YOU ARE COMPLAINING ABOUT.			
Name:	_____		
Address:	_____	City:	_____
Postal Code:	_____	Telephone:	_____ Fax: _____
Cell No:	_____	E-mail:	_____
Name:	_____		
Address:	_____	City:	_____
Postal Code:	_____	Telephone:	_____ Fax: _____
Cell No:	_____	E-mail:	_____

**DETAILS OF YOUR COMPLAINT**

You must identify the specific sections(s), along with the subsection(s), of the Code alleged to have been violated and set out the facts you rely upon in alleging the respondent(s) has/have breached each specified section. Please include the relevant background to the complaint.

**NOTE: Lack of sufficient particulars will delay the processing of the complaint.**

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**COLLECTIVE AGREEMENT**

Is a collective agreement in force between the employer and the union?

Yes

No

If yes, is the matter the subject of a grievance under the collective agreement? (Provide details)

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If a collective agreement is in force, explain why this complaint should be processed by the Labour Relations Board and not dealt with through the grievance/arbitration provisions of the collective agreement.

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**REMEDY**

Identify the specific remedy/remedies you are seeking from the Labour Relations Board.

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**CONFIRMATION OF SERVICE OF COMPLAINT**

Have you served a copy of this complaint on the respondent(s)?

Yes

No

When was your complaint served? Date: \_\_\_\_\_

**NOTE: You must satisfy the Board's service requirements before the Board will proceed with your complaint. See Labour Relations Board Rules 2(3), 6(1), 6(2) for details.**

Signature of Complainant or Representative: \_\_\_\_\_  
(omit if filing electronically)

Print name: \_\_\_\_\_

Position: \_\_\_\_\_

Date of signing: \_\_\_\_\_

COMPLETE AND DELIVER TO: Registrar  
Labour Relations Board  
600 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1  
Tel: 604-660-1300  
Fax: 604-660-1892  
Email : registrar@lrb.bc.ca

LABOUR RELATIONS BOARD FEES

**NOTE:**  
**APPLICATION/COMPLAINT MUST INCLUDE FEE OF \$100.00**

PAYMENT (CHECK ONE)

- ENCLOSED
- TO BE SENT WITH ORIGINAL COPY AS APPLICATION/COMPLAINT SENT BY FAX
- CHARGE TO PRE-APPROVED ACCOUNT

METHOD OF PAYMENT (CHECK ONE)

- CHEQUE
- DEBIT CARD
- CHARGE TO PRE-APPROVED ACCOUNT
- CREDIT CARD - **Information required as follows;**

Name as it appears on credit card: \_\_\_\_\_

Phone Number of where the card holder can be reached: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Organization Name (if applicable): \_\_\_\_\_

Please bill my **VISA**  **MASTERCARD**

Fee \$ \_\_\_\_\_



Signature: \_\_\_\_\_

Card Number: \_\_\_\_\_

Expiry Date - Month: \_\_\_\_ Year: \_\_\_\_\_

***Please note: The credit card information provided on this form will not be retained. Upon authorization of the payment request all credit card information will be destroyed.***

# Sections of the BC Labour Code relating to Unfair Labour Practice Complaints

**5** (1) A person must not

- (a) refuse to employ or refuse to continue to employ a person,
- (b) threaten dismissal of or otherwise threaten a person,
- (c) discriminate against or threaten to discriminate against a person with respect to employment or a term or condition of employment or membership in a trade union, or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person, because of a belief that the person may testify in a proceeding under this Code or because the person has made or is about to make a disclosure that may be required of the person in a proceeding under this Code or because the person has made an application, filed a complaint or otherwise exercised a right conferred by or under this Code or because the person has participated or is about to participate in a proceeding under this Code.

(2) If no collective agreement respecting a unit is in force and a complaint is filed with the board alleging that an employee in that unit has been discharged, suspended, transferred or laid off from employment or otherwise disciplined in contravention of this Code, the board must forthwith inquire into the matter and, if the complaint is not settled or withdrawn, the board must

- (a) commence a hearing on the complaint within 3 days of its filing,
- (b) promptly proceed with the hearing without interruption, except for any necessary adjournments, and
- (c) render a decision on the complaint within 2 days of the completion of the hearing.

**6** (1) Except as otherwise provided in section 8, an employer or a person acting on behalf of an employer must not participate in or interfere with the formation, selection or administration of a trade union or contribute financial or other support to it.

(2) Despite this section, an employer may permit an employee or representative of a trade union to confer with the employer during working hours or to attend to the trade union's business during working hours without deducting time so occupied in computing the time worked for the employer and without deducting wages for that time.

(3) An employer or a person acting on behalf of an employer must not

- (a) discharge, suspend, transfer, lay off or otherwise discipline an employee, refuse to employ or to continue to employ a person or discriminate against a person in regard to employment or a condition of employment because the person
  - (i) is or proposes to become or seeks to induce another person to become a member or officer of a trade union, or
  - (ii) participates in the promotion, formation or administration of a trade union,
- (b) discharge, suspend, transfer, lay off or otherwise discipline an employee except for proper cause when a trade union is in the process of conducting a certification campaign for employees of that employer,
- (c) impose in a contract of employment a condition that seeks to restrain an employee from exercising his or her rights under this Code,
- (d) seek by intimidation, by dismissal, by threat of dismissal or by any other kind of threat, or by the imposition of a penalty, or by a promise, or by a wage increase, or by altering any other terms or conditions of employment, to compel or to induce an employee to refrain from becoming or continuing to be a member or officer or representative of a trade union,
- (e) use or authorize or permit the use of the services of a person in contravention of section 68, or
- (f) refuse to agree with a trade union, certified under this Code as the bargaining agent for his or her employees who have been engaged in collective bargaining to conclude their first collective agreement, that all employees in the unit, whether or not members of the trade union, but excluding those exempted under section 17, will pay union dues from time to time to the trade union.

(4) Despite subsection (3), except as expressly provided, this Code must not be interpreted to limit or otherwise affect the right of the employer to

- (a) discharge, suspend, transfer, lay off or otherwise discipline an employee for proper cause, or

(b) make a change in the operation of the employer's business reasonably necessary for the proper conduct of that business.

**7** (1) Except with the employer's consent, a trade union or person acting on its behalf must not attempt, at the employer's place of employment during working hours, to persuade an employee of the employer to join or not join a trade union.

(2) If employees reside on their employer's property or on property to which the employer or another person has the right to control access or entry, the employer or other person must on the board's direction permit a representative authorized in writing by a trade union to enter the property to attempt to persuade the employees to join a trade union and, if the trade union acquires bargaining rights, after that to enter the property to conduct business of the trade union.

(3) If directed by the board and on request by the trade union representative, the employer must provide the representative with food and lodging at the current price and of a similar kind and quality as that provided to the employees.

**9** A person must not use coercion or intimidation of any kind that could reasonably have the effect of compelling or inducing a person to become or to refrain from becoming or to continue or cease to be a member of a trade union.

**32** (1) If an application for certification is pending, a trade union or person affected by the application must not declare or engage in a strike, an employer must not declare a lockout, and an employer must not increase or decrease rates of pay or alter a term or condition of employment of the employees affected by the application, without the board's written permission.

(2) This section must not be construed as affecting the right of an employer to suspend, transfer, lay off, discharge or otherwise discipline an employee for proper cause.

**45** (1) When the board certifies a trade union as the bargaining agent for employees in a unit and a collective agreement is not in force,

- (a) the trade union may by written notice require the employer to commence collective bargaining, or the employer may by written notice require the trade union to commence collective bargaining, and
- (b) the employer must not increase or decrease the rate of pay of an employee in the unit or alter another term or condition of employment until
  - (i) 4 months after the board certifies the trade union as bargaining agent for the unit, or
  - (ii) a collective agreement is executed, whichever occurs first.

(2) If notice to commence collective bargaining has been given and the term of a collective agreement that was in force between the parties has expired, the employer or the trade union must not, except with the consent of the other, alter any term or condition of employment, until

- (a) a strike or lockout has commenced,
- (b) a new collective agreement has been negotiated, or
- (c) the right of the trade union to represent the employees in the bargaining unit has been terminated, whichever occurs first.

(3) Despite subsection (1), the board, after notice to the trade union, may

- (a) authorize an employer to increase or decrease the rate of pay of an employee in the unit, or alter a term or condition of employment, and
- (b) specify conditions to be observed by an employer so authorized.

(4) This section must not be construed as affecting the right of an employer to suspend, transfer, lay off, discharge or otherwise discipline an employee for proper cause.