

## Employment Standards Act Review

Deputation from the Central Student Association of the University of Guelph, Local 54 of the Canadian Federation of Students - Ontario

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The working conditions for the majority of student workers are within the purview of the *Employment Standards Act*. Student workers, who largely fall between the ages of 15 & 24, make up roughly 8% of the labour force in Ontario. Although this percentage doubles over the summer break, students, particularly those pursuing post-secondary education are working throughout the calendar year in order to meet their tuition and living expenses.

Depending on the time of year, the vast majority (between 70-90 per cent) of students are employed on a part-time basis. As a group, students are over-represented in two sectors: accommodation and food services and retail and wholesale.

A revised and updated *Employment Standards Act* has the potential to educate over half a million students in Ontario of their obligations and rights, improve their school and work balance, and provide a way out of record high student-debt loads.

In particular, there are three areas of the current *Employment Standards Act* the Canadian Federation of Students would like to draw the committee's attention to.

### **1. Minimum Wage**

#### **(a) Differential Minimum Wage Rates**

For many students working part-time, their age and student status allows an employer to pay them less than the general minimum wage. Student workers are consistently discriminated against based upon their status as students. As the cost of post-secondary education continues to increase, students cannot afford to be paid a rate less than the general population. There should be no differential treatment in pay, benefits and working conditions for workers who are doing the same work but are classified differently, such as part-time, contract, temporary or casual.

**Recommendation: Eliminate the student minimum wage and apply the general minimum wage to students.**

#### **(b) Employees Sent Home After Working Less Than Three Hours: The Three-Hour Rule**

Currently, students are exempt from the "*Three-Hour Rule*." This rule guarantees a cumulative wage (of at least three hours, depending on whichever is cumulatively higher between the minimum wage or the employee's regular wage) for employees working more than three hours a day. For the vast majority of students employed on

a part-time basis, most are regularly assigned shifts of more than three hours when they work.

**Recommendation: Lift the exemption applied to students.**

## 2. Personal Emergency Leave

Employees at work places of at least 50 employees are eligible for unpaid personal emergency leaves in absence of any threat of reprisal. This section of the *Employment Standards Act* outlines four general areas where personal emergency leaves may be taken. Each area is defined by events that are unplanned or out of the employee's control and raises the possibility of serious negative consequences if not responded to. For the vast majority of working students in post-secondary education, final examination schedules are generally not publicized until four to six weeks prior to their undertaking. Further, it is common for individual examination schedules to be condensed into a span of ten days. Working students are often pressured to maintain their employment schedule while studying for final examinations. The fear of losing shifts and/or summer employment is a common concern.

**Recommendation: Include a category recognizing final examinations as a reason for personal emergency leaves.**

## Final thoughts

Although the recommendations outlined in this deputation reflect changes needed to the current *Employment Standards Act*, it is also important for the committee to consider issues of *scheduling* when it comes to shift and part-time work. This single issue is responsible for much of the uncertainty and insecurity part-time workers face on a daily basis.

Compounding this issue is the lack of a guaranteed minimum number of hours for part-time workers. Employers expect part-time workers to be available for 5 days and only schedule them for 2 or 3. There is no ESA requirement to provide schedules with reasonable notice. The expectation that workers will be available for erratic shifts creates an immense emotional and financial hardship as workers are routinely faced with the thought of being looked at unfavourably if they do not choose to take last-minute shifts.

**Recommendation: Require two weeks advance posting of work schedules. Require that employees receive the equivalent of one hour's pay if the schedule is changed with less than a week's notice, and four hour's pay for schedule changes made with less than 24 hours notice.**