

The Government of Ontario brought in a new regulation on April 1 that authorizes public health boards to disregard collective agreement provisions respecting work deployment or staffing so long as the action taken is a “reasonably necessary measure to respond to, prevent and alleviate the outbreak” of COVID-19.

What authority is given to the employer?

The authority given to public health units includes:

- Identifying staffing priorities and developing redeployment plans without the need to comply with collective agreement provisions. Those plans can include:
 - > Re-deploying staff within different locations in or between facilities of the public health unit,
 - > Changing the assignment of work, including assigning non-BU employees or contractors to perform BU work,
 - > Changing the scheduling of work or shift assignments,
 - > Deferring or cancelling vacations and other leaves, even if the leaves are statutory,
 - > Employing PT or temp staff or contractors, including for the purpose of performing BU work,
 - > Using volunteers to perform work, including BU work, and
 - > Providing appropriate training or education as needed to staff and volunteers to achieve the purpose of the redeployment plan.
- Conducting skills and experience inventories of staff to identify alternative roles in priority areas
- Requiring information from staff, contractors or volunteers about availability to provide services to the agency or the municipality
- Requiring and collecting info from staff, contractors or volunteers regarding likely or actual exposure to COVID-19 or other health conditions that might affect their ability to provide services
- Providing supports to staff and contractors to enable them to carry out their duties

- Cancelling or postponing services not related to the COVID-19 pandemic or services that the employer’s business continuity or pandemic plans do not deem to be critical
- Suspending the grievance process re any matter referred to in the regulation for the duration of the regulation.

Public health units are authorized to implement their redeployment plans even though they are contrary to the provisions of a collective agreement, including provisions regarding layoff, seniority, and bumping.

SHOULD WE BE CONCERNED ABOUT THESE POWERS?

We should be concerned any time a government allows an employer to override our constitutional rights. While we do not expect to see layoffs in public health units at this time, the new powers could easily be abused by employers, and could be part of a larger government attack on collective bargaining rights using the current crisis as cover.

What should my local do?

- Keep detailed accounts of an employer’s use of powers given by this regulation wherever the collective agreement is violated. This evidence will be crucial in any future legal proceedings or in negotiations with the government.
- Insist that employers using these powers explain in writing why they feel it is necessary to override the collective agreement.
- File grievances. Although the new regulation allows employers to “suspend” the grievance process, it does not prohibit grievances.
- Keep your CUPE National Staff Representative informed of violations. It is imperative that we track these violations and your staff rep may be asked to provide updates at any time.