

From: [CUPE Local 4400](#)
To:
Subject: IMPORTANT INFORMATION ABOUT INCORRECT INFORMATION BEING SHARED WITH MEMBERS
Date: November 1, 2021 4:41:09 PM

Greetings Toronto Education Workers/Local 4400 Members,

The document attached is a Field Visit Report from the Ministry of Labour, Training and Skills Development (MLTSD) and this is for information only.

Please see the information below that is in response to some incorrect information that is being shared with our Members.

The Employment Standards Act, 2002 has provisions which permit employees to take various types of unpaid leave. The Act does not prohibit employers from placing employees on unpaid leave. The employer's right to suspend an employee from work is not restricted by the Act, but a lengthy suspension could be deemed to be a termination. The Act does not prohibit suspension or termination of employment. Only the Collective Agreement does that.

The Collective Agreement does restrict the employer's rule making authority. The employer is only permitted to impose reasonable rules. An employer's mandatory vaccination policy may, or may not be found to be reasonable, but that will be up to an arbitrator. If an arbitrator finds that the rule was reasonable, and you have refused to comply with it, you might be subject to discipline or termination of employment.

There has been some misinformation spreading on the internet about the effect of the Employment Standards Act, including a youtube video that incorrectly suggests that the Act prohibits employers from suspending employees or placing them on leave. It does not do that. The Regulation that creates Infectious Disease Emergency Leave had the effect of disentitling employees to termination or severance pay if they are placed on unpaid leave. It was imposed to permit employers to lay off employees for a long time without triggering a termination.

The youtube video suggests that the Infectious Disease Emergency Leave Regulation has been repealed. It has not been repealed, but it is not relevant to employment under a Collective Agreement.

The youtube video urges employees to refuse to comply with employer policies and to attend at work, even if instructed not to do so. This is reckless advice that could lead to serious discipline or termination of employment, even if the grievance against the policy later succeeds. You should be very careful about taking such advice from the internet.

There is a grievance filed that challenges the reasonableness of the TDSB policy. An arbitrator will determine that issue, but in the meantime, refusing to leave the workplace when told to do so would be a mistake.

In Solidarity,

John Weatherup
(*pronouns: he, him*)

President

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