

# Improving the Employment Standards Act

Students' submission to the Changing Workplaces Review

**cfs**fcée | Canadian Federation of Students–Ontario



# 350,000 undergraduate, graduate, & college students united!

With more than 350,000 members at 38 students' unions in all regions of the province, the Canadian Federation of Students–Ontario is the voice of post-secondary education students in Ontario. Our Federation represents students at the college, undergraduate and graduate levels, including full- and part-time students.

*September 2015*

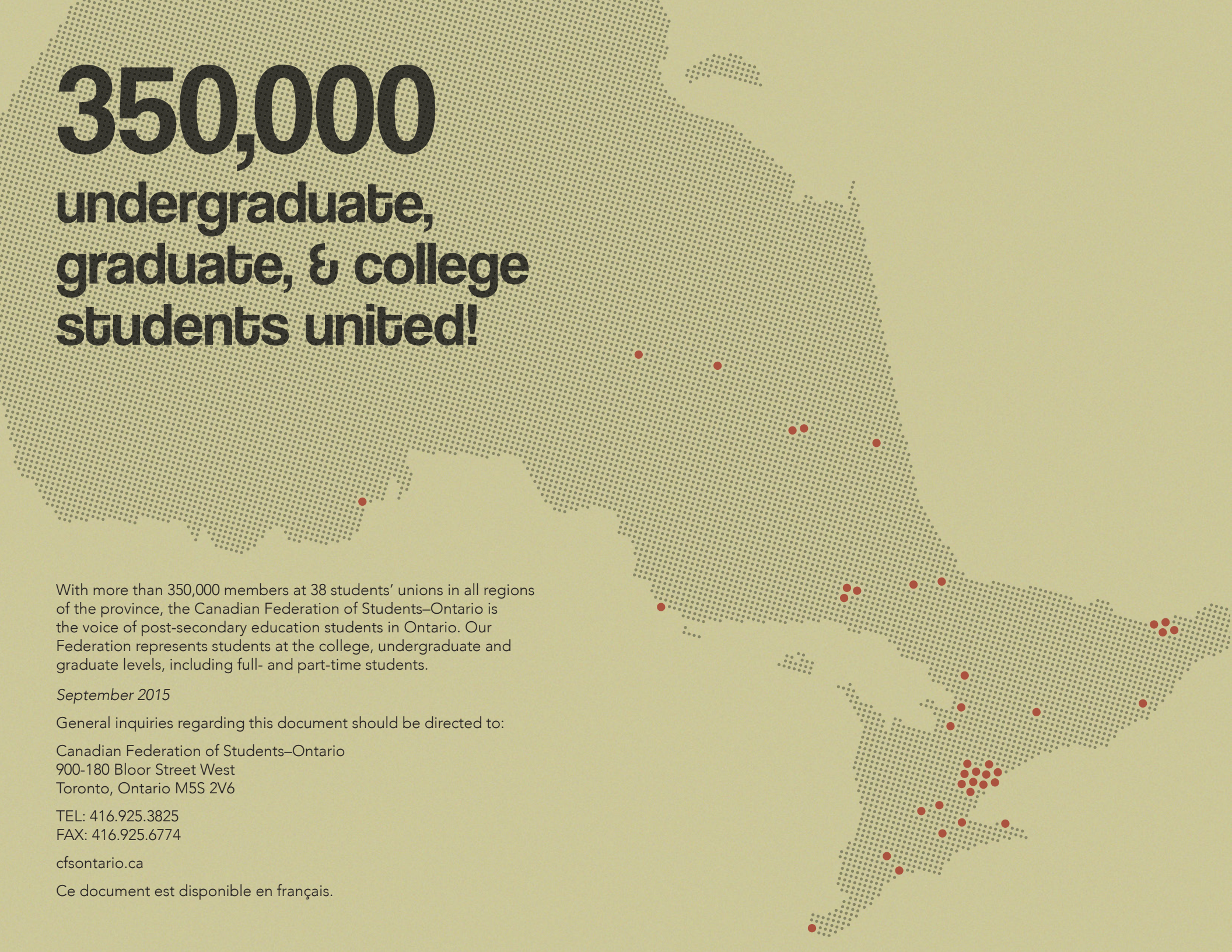
General inquiries regarding this document should be directed to:

Canadian Federation of Students–Ontario  
900-180 Bloor Street West  
Toronto, Ontario M5S 2V6

TEL: 416.925.3825  
FAX: 416.925.6774

[cfsontario.ca](http://cfsontario.ca)

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# Introduction

The Ontario government launched the Changing Workplaces Review on February 17, 2015 to identify potential labour and employment law reforms. This review offers an important opportunity to both provide feedback on existing workplace standards and identify gaps for Ontario's most vulnerable and marginalized workers. The Canadian Federation of Students-Ontario (CFS-O) represents over 350,000 college and university students who increasingly find themselves subjected to low wage, part-time, temporary, or contract jobs without employee benefits or workplace protections.

College and university students across Ontario are facing skyrocketing tuition fees and mortgage-sized debt loads leaving them with no choice but to rely on precarious work to finance their education and make ends meet. Statistics Canada shows that students between the ages of 15 and 24 comprise 21 per cent of the labour force in Ontario. Depending on the time of year, between 70 and 90 per cent of these students are employed on a part-time and precarious basis. At a time where Ontarians are witnessing an erosion of good working conditions, these disappointing realities continue to follow students even after they graduate and are attempting to find a place in today's job market.

It is within this context that both the Employment Standards Act (ESA) and the Ontario Labour Relations Act (OLRA) need to be updated to address issues faced by students who are far too often the most marginalized and vulnerable workers in workplaces across the province.

This submission works to provide a specific narrative on behalf of college and university students across Ontario to address the ways in which both the ESA and the OLRA can better support students. This submission complements presentations made by members of the Canadian Federation of Students-Ontario (CFS-O) to the review committee, which include presentations made by:

- **Vanessa Dorimain**, Vice-President University Affairs at the Student Federation of the University of Ottawa, Local 41
- **Emerson Calcada**, Campus Councillor at the University of Toronto, Mississauga, Local 109
- **Asia Barclay**, External Affairs Commissioner and **Sonia Chwalek**, Communications and Corporate Affairs Commissioner at the Central Student Association of the University of Guelph, Local 54
- **Matthew Dunlop**, Vice-President Student Advocacy of the University of Windsor Students' Alliance, Local 49
- **Mia Bourque**, Vice-présidente aux politiques, Association des étudiantes et étudiants francophones de l'Université Laurentienne, Section 88
- **Evan Johnston**, member of the Graduate Students' Association of McMaster University, Local 39
- **Roman Jakubowski**, President of the Lakehead University Student Union, Local 32



Additionally, the Canadian Federation of Students-Ontario endorses the submissions made by the Ontario Federation of Labour and the "Fight for \$15 and Fairness" campaign.

# Summary of Recommendations

Post-secondary students across the province increasingly participate in precarious employment without access to benefits or protections. As such, students are looking to the government to provide the necessary support we deserve.

The Canadian Federation of Students-Ontario hopes that your proposals will support the following recommendations.

## **Recommendation:**

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

## **Recommendation:**

Include a category recognizing final examinations and mid-term examinations as a reason for personal leaves

## **Recommendation:**

Update the Labour Relations Act to ensure that workers have the ability to organize collectively to improve their conditions of work and join a union without fear of reprisal from their employer.

## Recommendation:

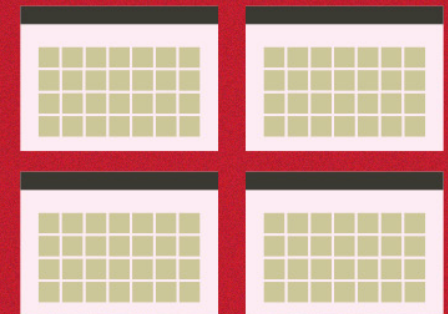
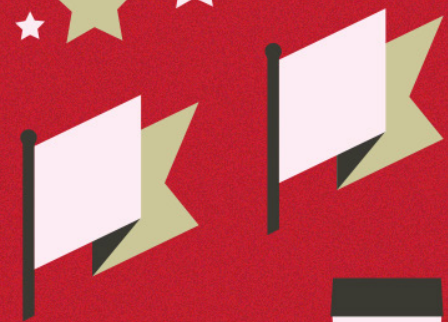
The Ministry of Labour require employers to communicate workers' rights as outlined in the Employment Standards Act to all new employees.

## Recommendation:

The Ministry of Labour proactively investigate violations of the Employment Standards Act by working with workers' rights advocates and establishing both anonymous and third-party complaint mechanisms.

## Recommendation:

Eliminate the student minimum wage and apply the general minimum wage to students. All workers should be able to receive benefits, regardless of characterization of the worker (i.e. part-time, temporary).



# Providing Advance Notice

Issues of scheduling are of the utmost importance for college and university students in Ontario. Employers have unrealistic expectations of part-time employees to be available throughout the week, often letting students know only 24 hours in advance of a shift. This practice is the cause of much distress and the source of many problems for students who also have to deal with issues such as class schedules, child care and transportation when dealing with work.

Compounding this issue is the lack of guaranteed minimum numbers of hours for part-time workers. Employers expect part-time workers to be available for five days and only schedule them for two or three. The Employment Standards Act lacks a 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, particularly when seeking employment over the holidays.

Students across Ontario often take up multiple jobs to be able to finance their education. The practice of erratic scheduling can also lead to students having to give up particular jobs as the schedules make it unrealistic for them to keep all of the jobs they require to make ends meet.

## Recommendation

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

# Flexible Scheduling for Students

Employees at workplaces 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 spans 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.

There needs to be better support provided to students by the Employment Standards Act. Students are currently not provided with any accommodation regarding their class schedules, end of year projects and mid-term examinations. Recognizing that these particular times are highly stressful and time consuming for students, the Employment Standards Act should expand the category of personal emergency leaves to include these instances.

## Recommendation

Include a category recognizing final examinations and mid-term examinations as a reason for personal leaves.

# Supporting Student Worker Rights

Students often represent the most vulnerable workers in Ontario. As such, we have seen an increasing number of violations towards student workers by their employers. Many students have little experience in dealing with employers and are often unaware of the remedies and supports available to them within the current ESA.

Traditionally, unions have played an important role in our society to support workers by improving workplace conditions and challenging income inequality. Unions also provide an avenue for new workers to familiarize themselves with their rights under the ESA and OLRA. The union often plays the role of providing advocacy support for student workers attempting to navigate existing legislation and provide legal support. Without unions students are often not in the position to follow through with complaints against their employer.

As precarious jobs continue to outpace full-time employment it is more important than ever to ensure that even the most vulnerable workers in our job market have the opportunity to access collective representation through a union. Many students have reported that their employers have discouraged union drives within their workplaces and that they fear reprisal.

## Recommendation

Update the Labour Relations Act to ensure that workers have the ability to organize collectively to improve their conditions of work and join a union without fear of reprisal from their employer.



## **Recommendation**

The Ministry of Labour should require employers to communicate workers' rights as outlined in the Employment Standards Act to all new employees.

## **Recommendation**

The Ministry of Labour proactively investigate violations of the Employment Standards Act by working with workers' rights advocates and establishing both anonymous and third-party complaint mechanisms.

# Addressing Disparities in the Workplace

For many students working part-time, their age and student status allow 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.

It should be noted that students mostly take up the same jobs as their non-student counterparts but are paid less. In Ontario, the increasing cost of living and mounting student debt for college and university students means that we require a model of equal pay for equal work. Students must not be discriminated on the sole basis of their status as students. Instead, the Employment Standards Act should look towards creating a more equitable system of pay where students are given fair wages for the work they are doing.

Students also are not able to access the same benefits that full-time employees do. We should work towards creating a system where benefits are extended to all workers.

## Recommendation

Eliminate the student minimum wage and apply the general minimum wage to students. All workers should be able to receive benefits, regardless of the characterization of the worker (i.e. part-time, temporary).



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