

CUPE BC Region Bulletin

Registering for WorkSafeBC (“WCB”) Coverage for Union Members and Activists Attending Union Functions or Working for Unions in BC

Tom McKenna, National Representative
January 2023

CUPE Locals members and elected officials (in addition to workers hired by the Union) may be required to perform Union business or participate in Union activities. The regular Employer may continue the employee (“worker”) on paid leave, may continue the worker on paid leave with reimbursement by the Union (Local) or may allow an unpaid leave of absence (subject to the Collective Agreement) with the Union (Local) paying the salary and benefits of the worker.

Unions should register with the WCB in order to provide WorkSafeBC coverage for members, activists and book-offs for positions such as CUPE Local Presidents while attending Union functions e.g. CUPE Local General meetings, Labour Management Meetings, bargaining, conventions (National and Provincial) and education (Local, joint employer / Union, BC Federation of Labour, etc.). Coverage could include secretarial support, Business Agents, custodians, contractors, etc. See <https://www.worksafebc.com/en/insurance/apply-for-coverage>.

This information does not address nor apply to strikes, lock-outs, etc. For these types of circumstances contact the CUPE National Representative for the CUPE Local.

The Bulletin and the Guide are for BC legislation, not federal or other provincial legislation.

This does not address WCB coverage by the CUPE BC Division or CUPE National.

This information is based upon current WCB Rehabilitation Services and Claims Manual, the *Workers Compensation Act*, WCB Practice Directives, the WCB Assessment Manual, speaking with WCB representatives and the BC Workers’ Advisers Office. **Make sure the most current versions are being referred to.**

Always make sure to obtain Clearance Letters from contractors and subcontractors before any services are received in order to confirm that they have registered with the WCB, are paying their premiums and are in good standing with the WCB.

There are many sample scenarios for potential WCB registration for coverage:

- Members who are on leave to conduct Union business may continue to be covered under the regular Employer's WCB registration if the Employer continues to direct pay the worker's salary.
- Where the Union subsequently reimburses the Employer for such costs, there has been a mixed practice of the Union (Local) being deemed the Employer by WorkSafeBC. Recent cases have determined the Union (Local) was the Employer. Each case is fact dependent and WorkSafeBC determinations vary.
- If the regular Employer does not continue the worker's salary and the Union pays the member's (worker's) salary directly, coverage will often be under the Union's WCB registration (payment of remuneration such as token payments, daily allowances or reimbursement of expenses, is often not considered to be a payment of "salary").
- When the member is not paid salary or other payments by either the regular Employer or the Union, the worker may be considered a "volunteer" and may not be covered in the event of an injury. Each case varies.

The general steps for registration with the WCB include the following:

- Gather payroll records for the previous five years. This includes other background information such as name of Employer (CUPE Local), address, telephone number, email address, incorporation number (if applicable), business number from the Canada Revenue Agency, the name and number from the WCB account (if the CUPE Local already has one), the names of people or businesses the CUPE Local provides services to, any major equipment, the start date of operations, etc.
- Register via telephone, online or by mail. Log into the WCB site if you already have an account or you need to create one as per https://online.worksafebc.com/anonymous/InternetRegistration/default.aspx?_ga=2.78216084.163175227.1573260044-1692861506.1557254464.
- The WCB will review the registration application. If the CUPE Local is deemed to be eligible, the WCB will then determine the coverage premium and the date coverage comes into effect. The WCB will send a letter by mail confirming the CUPE Local's account number, Classification Unit and effective date of coverage. Payment can be made via the WCB portal, via the Fast File and Pay option, in person, at the WCB, by mail or at a financial institution as per <https://www.worksafebc.com/en/insurance/apply-for-coverage>.

The key language for determining if a Union (Local) is the Employer is from WorkSafeBC Assessment Policy AP1-1-5(b) (current as of January 2023):

“Union delegates attending conferences, seminars, conventions or similar events are considered workers of the union if they receive a recorded payment for attending such functions, whether it be in the form of a wage or a per diem allowance.”

Where the relevant Collective Agreement does not have language such as “the employer is responsible for any workplace injuries while a worker is on union leave” the non-Union Employer e.g. the municipality for example, might not be deemed the Employer by WorkSafeBC – the Union (Local) would be deemed the Employer for claims purposes. Contact the CUPE National Representative for further information.

Where a worker is attending a Union function and is involved in a motor vehicle accident (“MVA”), the WCB has determined the relevant claims Policy (RS&CM) language includes: Section D – Business Trips (pages 6 and 7 of 8 of Policy C3-19.00). Where a Union (Local) is deemed to be an Employer, then Section D applies:

“April 6, 2020 Volume II - C3-19.00 - Page 6 of 8

D. Business Trips

The general factors listed under Item C3-14.00 are used to determine whether a trip undertaken by a worker is sufficiently connected to the worker’s employment as to be a business trip. For example, if the trip is taken for the employer’s benefit, on the instructions of the employer, or paid for by the employer, these are all factors that weigh in favour of finding that the trip is a business trip.

An employment connection generally exists continuously during a business trip, except where the worker makes a distinct departure of a personal nature.

This means that injuries or death that result from a hazard of the environment into which a worker has been put by the business trip, including hazards of any overnight accommodation itself, are generally considered to arise out of and in the course of a worker’s employment. However, injuries or death resulting from a hazard introduced to the premises by the worker for the worker’s personal benefit may not be considered to arise out of and in the course of the worker’s employment, if no other factors demonstrate an employment connection.”

(Partial excerpt only)

(Emphasis added)

https://cupe.sharepoint.com/sites/BritishColumbiaRegionalOffice/Health_Safety/WCB/Forms and Guides/Bulletin CUPE Registering WCB Coverage Union Members Activists Attending Union Functions Working for Union BC 2023-01.docx
cope-491.ct