

Protocol for the Legitimation of Collective Bargaining Agreements Union and Employer Obligations / Rights of Workers

Following the publication of the labour reform law on May 1, 2019, the Mexican government committed to producing a Protocol outlining how existing collective bargaining agreements (CBA's) will be legitimized by the workers covered by those agreements, through a personal, direct, free and secret vote.

An initial Protocol was published by STPS on August 1, 2019, and an updated version was published on February 3, 2021. On May 1, 2021, the Federal Centre for Conciliation and Labour Registration (CFCRL) took over the oversight role for the CBA legitimation process, and published its own protocol, which provides more detail on what inspectors should be assessing before, during and after a vote, and how workers can register complaints if there are any irregularities. The complete CFCRL Protocol is available [here](#).

The Protocol is the legal guide for how unions must organize, carry out, and report on the results of CBA legitimation votes, and the responsibilities of employers during the process. It provides step-by-step directions on those procedures. Unions holding title to collective bargaining agreements have until May 1, 2023 to complete this one-time-only process. If they fail to do so in that time period, the CBA is nullified.

The following is a brief description of the obligations of employers and unions and the rights of workers under the Protocol.

EMPLOYER OBLIGATIONS REGARDING THE CBA LEGITIMATION PROCESS:

- 1.** Provide a printed copy of CBA to all workers at least three days prior to the legitimation vote.¹ (This becomes the union's responsibility only if the employer fails to do so; the employer has primary responsibility.)
- 2.** Provide the necessary facilities for the vote that are accessible to the workers and meet the necessary conditions for workers to cast their vote in a personal, free, secret, direct, peaceful, agile and secure manner, without being coerced in any way.
- 3.** Non-interference: Beyond carrying out its designated responsibilities, the employer cannot interfere in the consultation procedure.

¹ The Federal Centre's Protocol for the CBA legitimation process, Article 25 states: "The employer must... provide workers a printed copy of the existing CBA at least three days prior to a CBA legitimation vote." On June 19, 2021, the Director of the Federal Centre, Alfredo Dominguez Marrufo, "[r]eiterated the responsibilities of employers in these processes, including providing workers a printed copy, not digital, of the CBA at least three days prior to the vote."
https://centrolaboral.gob.mx/images/prensa/028-19062021_Industria_Autopartes.pdf

4. Although the union is responsible for posting both the election notice (10 days prior to the vote) and the results of the vote in visible and accessible places in the workplace and the union premises, the employer will have to cooperate with their posting in the workplace.

UNION OBLIGATIONS:

The union that holds title to the CBA is the leading actor in the CBA legitimation process and has to follow these steps:

1. Deliver an electronic notice to the Federal Centre ten days prior to the scheduled CBA legitimation vote and notify the employer of the date of the vote.
2. Publish the notice in the workplace of the CBA legitimation vote.
3. If the employer fails to comply with its obligation to provide copies of the CBA to the workers, the union will be able to do so at least three business days prior to the vote and notify the labour authorities of this violation so that the corresponding fine can be imposed.
4. Ensure the right of workers to participate in a personal, free, direct, peaceful, secure, and secret-ballot vote on their existing CBA.
5. Post the details of vote results in visible and accessible places in the workplace and the union premises.
6. Notify the Federal Centre electronically, under oath, of the results of the vote, within three business days following the date of the consultation.

PROHIBITIONS FOR BOTH EMPLOYERS AND UNIONS:

Both the union and employer are prohibited from doing the following:

1. Providing false or blatantly misleading information to workers about the CBA legitimation process in order to discourage their participation or influence how they vote;
2. Providing extraordinary payments or benefits to workers to discourage workers from voting or to influence their vote; and
3. Engaging in intimidation or coercion of workers to impede them from voting or to influence how they vote.

RIGHTS OF WORKERS:

1. To participate in a personal, free, direct, peaceful, secure, and secret-ballot vote on the existing collective bargaining agreement.
2. To receive a printed copy of their existing CBA at least three days prior to the legitimation vote.
3. To continue to enjoy all the benefits of the current CBA if the vote is against the CBA.

4. The right of one or more workers to file a complaint with the labour authorities if there are any irregularities in the legitimation process, including:
 - employer or union providing workers false or blatantly misleading information about the CBA legitimation process to discourage them from voting or to influence their vote;
 - employer or union providing workers extraordinary payments or benefits to discourage them from voting or to influence their vote; and/or
 - employer or union engaging in intimidation or coercion of workers to impede them from voting or to influence how they vote.

For more information (in Spanish), see:

- Guía de Acción:
https://legitimacion.centrolaboral.gob.mx/Upload/guia_Legitimacion.pdf
- Preguntas Frecuentes:
<https://legitimacion.centrolaboral.gob.mx/Sindicato/PreguntasFrecuentes.aspx>

