

Member Education Committee: Strike FAQs

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Information

This document contains information to help members plan for a possible strike, including details on financial resources available while we are out on strike, what will happen to our work while on strike, and responses to common management talking points.

This document can't answer every single question you may have, but we hope it addresses the questions we hear most frequently from members.

If you find this useful and want to help the Member Education Committee on future projects, please reach out to Allison Hrabar (allisonhrabar@gmail.com)! The Committee meets every Friday from 1PM-2PM and we'd love to welcome new members.

Strike FAQs

Work During A Strike

Question: What happens to my cases while our union is on strike? Will my clients still get the assistance they need if I am not there to represent or advocate for them?

Answer: Countless legal workers at Legal Services and other legal aid organizations have gone on strike and won their demands without sacrificing their professional responsibilities of adequate representation of their clients.

It is Legal Services' responsibility as an organization to provide ongoing representation of our clients, even if its unionized staff go out on strike. Just as managers are obligated to cover cases when staff go out on vacation or leave, it is management's duty to handle our cases during a strike. This not only ensures that our clients are still being assisted, but it is also an additional pressure on management to agree to our demands, as they are forced to take on the burden of the labor we are withholding in the strike.

Bargaining can be a lengthy process, meaning that both management and staff will have extensive notice that we may be headed toward a strike. If a strike is authorized, there will also be time before the strike begins, which will be set to start on a specific date. This time will allow you to notify your clients and prepare your cases for coverage by management, whether by prepping papers for filing or writing up transfer memos to smooth the transition of your clients' cases.

We and management both know that Legal Services depends on our labor to provide high quality representation and that a strike means that quality will suffer. However, we can work ahead of the strike to ensure that pressing matters do not fall through the cracks while we are out, and that our clients' legal needs are still being met. It is important to remember as well that the short-term challenges of a strike are necessary to secure a better workplace for Legal Services staff and better representation for our clients.

Strike Benefits

Question: What benefits can I anticipate if we are on strike?

Answer: UAW Strike Pay and health coverage, LSSA hardship funds as needed and, for most people, New York State Unemployment Insurance. UAW strike pay will begin the first day of the strike at a rate of \$500 per week, or \$100 per weekday that we are on strike. Almost all members should be eligible for the full amount, so long as you remain in good standing with the union and participate in daily strike activities. Starting in week three of the strike, you will most likely also become eligible for Unemployment Insurance of up to \$504 per week, which is administered by

application to the NYS Department of Labor. These financial benefits may be supplemented for individual members as needed by applying to our hardship committee for a grant from our LSSA hardship fund. UAW will also match our medical insurance if Legal Services cuts our insurance while we are on strike. Further details on each of these benefits are listed below:

- Financial assistance [see the end of this section for a weekly breakdown of strike benefits from BxD’s 2024 strike planning]:
 - Assistance starting day 1 of strike:
 - *UAW Strike Assistance*: starting from the first day of a strike, get \$500 per week (prorated at \$100 per day, Monday - Friday), which comes from our dues contributions to the UAW Strike Assistance fund. The first strike payment will be made available after the 8th day of the strike.
 - To receive UAW strike benefits, members must be on active payroll immediately before the strike, be in good standing with our union, and participate in some form of strike activity each weekday of the strike. This could be picketing, making phone calls, participation in strike committee work, etc. UAW will hold a session for members to sign up for strike pay and health benefits. The following situations may also make a shop member ineligible for strike pay:
 - Receiving worker’s compensation
 - Receiving sick & accident benefits before and during the strike
 - Earning outside income of \$500/week or more during the strike
 - *Hardship Fund*: this is a need-based grant, administered by LSSA and available by application based on need. Hardship money is available to a member as soon as a completed application can be processed by the hardship committee.
 - *Note on Taxes* [for general informational purposes only; this is not tax advice so please consult a tax professional for advice about your specific situation]: UAW Strike Assistance is taxable income that must be reported to the IRS, but taxes are not withheld from the payments you receive. The UAW will send you a Form 1099-MISC for your tax filing, but you can estimate that a similar percentage of strike pay will be owed in taxes as is usually withheld from your paycheck. Hardship fund grants, on the other hand, have generally been considered “gifts” from the union and therefore are not compensation that must be reported as income on your taxes.
 - After two weeks on strike – Unemployment Insurance (UI):

- *What is UI?* UI is a cash benefit administered by the state for workers who have lost work through no fault of their own. In New York State, this includes striking workers.
- *Who is Eligible for UI?*
 - Striking workers in New York State become eligible for UI after two weeks on strike, i.e. beginning the third week or 15th day of the strike.
 - Note that we are eligible for UI sooner if there is a lockout, LSNYC hires permanent replacement workers, or we are still unemployed after the labor dispute is over.
 - This includes noncitizens with work authorization. UI does not make you a public charge under the public charge rule. Please reach out if you have further questions about non-citizen eligibility.
 - Note for newer employees: please be aware that you may be in a different situation than other employees for receiving UI if you have worked at Legal Services for less than six months before the strike. If you have worked at LSNYC for less than six months, please reach out to the Committee so we can help you figure out what your strike benefits and UI will look like. This will largely depend on whether you were working in the year before you started at LSNYC.
 - Note on travel: if you leave the United States or Canada even for a vacation while receiving UI, you may lose eligibility.
 - Note on back pay: if we receive back pay in our new contract, you may be asked to pay back some of the unemployment benefits
- *How Much Do You Get with UI?*
 - The amount of UI you get is based on your income, up to a maximum of \$504 per week. Workers on a step paying less than \$52,000 may receive slightly less than \$504 per week. You can use the DOL UI Benefit Calculator to estimate your benefit amount: <https://ux.labor.ny.gov/benefit-rate-calculator/>
- *How Long Does UI Last?*
 - Up to 26 weeks.
- *What Is the Impact of Part-time Work on UI?*
 - If you earn less than the max weekly benefit rate (currently \$504) and work less than 30 hours per week, you may be eligible for partial UI benefits.
 - 11-16 hours/week: benefits reduced by 25%
 - 17-21 hours/week: benefits reduced by 50%
 - 22-30 hours/week: benefits reduced by 75%

- More than 30 hours/week: not eligible for UI
- *How Do I Apply for UI?*
 - For the most updated information, see [here](#).
 - The Department of Labor (DOL) recommends that we file for UI on or after the 15th day after the strike begins. DOL says that claims filed before that time are usually denied.
 - It may take as long as 3-6 weeks for processing and approval of your UI claim.
 - Online registration recommended: labor.ny.gov/signin, by using or creating an NY.GOV ID
 - Can also call M-F, 8am-5pm to the Telephone Claims Center (TCC): 1-888-209-8124 and state that your separate reason is an “Industry Controversy.”
 - You will get a UI Monetary Benefit Determination letter in the mail, which will state:
 - The work history and earnings the DOL has on file for you;
 - How much money you will get weekly, if you’re eligible for UI; and
 - If you are deemed ineligible for UI, how to file an appeal.
 - If LSNYC gives us back-pay post-strike, we may be required to pay back some or all of the UI (though not if there was a lockout).
- *How Do I Maintain My UI Once I Am Signed Up?*
 - You must do weekly recertifications either online or by phone to keep your UI benefits going while out on strike.
- Healthcare:
 - Starting when employer health insurance cuts off, UAW will match employer-provided medical healthcare. Vision and dental care are not included.
 - UAW coverage of healthcare will continue through the duration of the strike.
 - How it works: UAW's contractor will either pay your medical bills directly (mirroring the rates for Legal Services’ coverage), or pay your COBRA premium. The UAW contractor will choose to pay COBRA only if you/your dependents have substantial medical expenses that make COBRA the cheaper option.
 - If you anticipate significant medical expenses during the strike, you should ask that UAW enroll you in COBRA at the start of the strike. For members and families concerned about disruption of vital or life-saving medical care, this may require coordination with LSNYC’s HR in order to obtain a COBRA letter right away and with the UAW benefits folks who have to approve people for COBRA.

Week By Week Strike Benefit Timeline (from BxD 2024 Strike Planning)

| Week of Strike | Benefits Available |
|--------------------|---|
| First Week | <ul style="list-style-type: none"> ● UAW Strike Benefits <ul style="list-style-type: none"> ○ Available ○ \$500 per week starting on day 1 of a strike ○ (If BxD cuts off health insurance) Healthcare mirroring the employer-provided healthcare, excluding dental and vision ● Unemployment Insurance <ul style="list-style-type: none"> ○ Not available ● Final Paycheck <ul style="list-style-type: none"> ○ Will receive last paycheck from BxD on August 2 for work week July 14-20 |
| Second Week | <ul style="list-style-type: none"> ● UAW Strike Benefits <ul style="list-style-type: none"> ○ Same as the first week. ● Unemployment Insurance <ul style="list-style-type: none"> ○ Not available |
| Third Week Onward | <ul style="list-style-type: none"> ● UAW Strike Benefits <ul style="list-style-type: none"> ○ Same as the first week. ● Unemployment Insurance <ul style="list-style-type: none"> ○ Shop members can apply. May take as long as 3-6 weeks for processing/approval. |
| Fourth Week Onward | <ul style="list-style-type: none"> ● UAW Strike Benefits <ul style="list-style-type: none"> ○ Same as the first week (continues <i>with</i> Unemployment Insurance, if approved). ● Unemployment Insurance <ul style="list-style-type: none"> ○ Same as third week ● Hardship Fund <ul style="list-style-type: none"> ○ Available |

Responses to Management Talking Points

Management is Predicting a Massive Budget Shortfall in Two Years! Won't We All Get Laid Off if We Demand More Money?

Management's budget estimates are based on accounting that only projects funding that is guaranteed for future years. This assumes that any funding source that is not renewed will end in the future and not be renewed or replaced by a new funding source. With these assumptions built into their budget models, management can keep demanding that staff tighten our belts or else face layoffs when current funding sources end.

But this is not an honest picture of how Legal Services' finances change year to year. For decades, LSNYC has successfully renewed much of its non-guaranteed funding and found new sources to replace and expand upon lost funding. In fact, in recent years our organization has experienced rapid expansion at both the staff and management levels, with an unprecedented growth in salaries among upper management. Legal Services' hiring and compensation decisions underscore that we are on strong financial footing and the organization can afford to provide staff with fair wage increases.

Don't We Already Get Yearly Raises?

Yes, but this doesn't mean we shouldn't fight for higher wages across the step scale, particularly as the cost of living is going up for everyone.

Imagine the total pool of wages at Legal Services as a pie. With the step system, you get a slightly larger "slice" each year that you work here. As people on higher steps leave and get replaced by new hires on lower salary steps, the total cost to Legal Services remains relatively unaffected. What this means is that if we don't fight for salary increases across the step scale, the total slice of the salary pie going to workers will shrink relative to management, as they give themselves bigger and bigger raises each year. If we want to demand any kind of pay equity with management, we cannot let them trick us into believing our step raises are enough.

Wins From Past Strikes

1977: this strike took management by surprise and lasted only a week. Key gains were significant across-the-board pay increases, including wage parity with Legal Aid for attorneys, and a provision staying contested changes in work rules through arbitration.

1979: a nine-week strike through the heart of winter. It was provoked by new Executive Director Kathy Mitchell, who wanted to become a union-busting hero within the ALADA by crushing the union that had fomented and assisted the birth of so many other Legal Services unions around the country. Although some compromises were made on the implementation of work rules, other giveback demands were defeated. The union also won retirement benefits for the first time, an affirmative action policy, increased due process especially for probationary employees, and 24% raises. Plus, when the smoke cleared, we were still here, and Mitchell was gone.

1991: started on April Fool's Day and lasted almost four months. We won the step system wage scale for all employees, significant salary increases, retroactive pension payments, a sexual harassment policy, improved working conditions, and more.

1993: we had to strike again, for about a month, to preserve and improve healthcare coverage and to fight off management demands that we give back much of what we had won in 1991. We won domestic partner coverage for LGBTQ couples.

2013: our most recent strike! For literally forty days and forty nights, we fought off management demands for massive cuts to retirement and healthcare benefits. We also won increased job security, provisions against gender discrimination, and increased parental leave.