

What You Need to Know

Industrial action is one of the most effective tools available to workers when negotiating a new enterprise agreement.

Although the Independent Education Union (IEU) always aims to reach agreement through genuine, good-faith negotiations, members' ability to take protected industrial action gives employers a strong incentive to negotiate seriously, fairly and promptly.

This fact sheet explains how the process works, your legal protections, and how every member can contribute to a successful campaign.

WHAT IS INDUSTRIAL ACTION?

Industrial action involves more than strikes.

Under the **Fair Work Act 2009 (s 19)**, industrial action includes any action that restricts, limits, bans, delays or changes how work is normally performed. Depending on what members authorise, it may include:

- work stoppages, including partial or full-day strikes;
- bans on particular duties, meetings or administrative tasks;
- bans on yard duty or other non-teaching duties;
- wearing campaign clothing or badges; and
- other lawful forms of protected industrial action approved through the ballot process.

Each campaign is different. The forms of action proposed will depend on the issues being negotiated and the circumstances at your workplace.

HOW DOES PROTECTED INDUSTRIAL ACTION HAPPEN?

Protected industrial action can only take place after a regulated legal process under the Fair Work Act.

Step 1: Protected Action Ballot Order (PABO)

Before members can vote on industrial action, the IEU must apply to the Fair Work Commission (FWC) under s 437 for a **Protected Action Ballot Order (PABO)**.

The Commission can only make a PABO if:

- enterprise bargaining has commenced;
- the IEU is genuinely trying to reach an agreement;
- the existing enterprise agreement has expired, or will expire within 30 days; and
- the legal requirements of the Fair Work Act have been met.

The employer has an opportunity to respond to the application.

The Fair Work Commission will hold a Conciliation Conference under s 448A to see whether the parties can resolve the dispute without industrial action.

A PABO does not authorise industrial action.

It only allows eligible union members to vote on whether to authorise specific forms of protected industrial action.

Step 2: The protected action ballot

If the FWC grants the PABO, an independent ballot agent conducts a secret ballot. The IEU uses an independent vote service for ballots, eg. *Fair Vote*.

Voting is generally conducted electronically, with eligible members receiving instructions by email and/or SMS.

For the ballot to succeed, two legal requirements must both be met:

- at least **50% of all eligible IEU members** must vote; and
- more than **50% of those who vote** must vote "Yes" to at least one proposed form of industrial action.

This is often called the double-majority requirement.

Members vote separately on each proposed form of industrial action.

Step 3: Taking protected industrial action

If the ballot is successful, the IEU may organise the forms of industrial action that members approved.

Before any action can occur:

- the employer must receive at least **three working days' written notice** (s 414(2)(a)(i));
- the action must generally begin within **30 days** of the ballot result, unless the FWC extends that period (s 459(1)); and
- bargaining continues throughout the process.

Industrial action is rarely a single event. It is usually planned carefully and escalated only if needed while negotiations continue.

Importantly, **voting "Yes" in the ballot is not a commitment to participate in industrial action immediately.**

It simply authorises the IEU to organise approved forms of industrial action if and when they are needed during bargaining.

AM I PROTECTED IF I PARTICIPATE?

Yes.

Members who participate in **protected industrial action** are protected by the Fair Work Act.

An employer cannot lawfully take adverse action against an employee because they:

- vote in a protected action ballot;
- participate in protected industrial action; or
- choose not to participate in protected industrial action.

Only industrial action that complies with the Fair Work Act receives these legal protections.

WHY IS VOTER TURNOUT SO IMPORTANT?

The biggest reason protected action ballots fail is **not because members vote 'No' – it's because too few members vote at all.**

The law requires at least half of all eligible IEU members covered by the agreement to cast a vote.

If turnout falls below that threshold:

- the ballot fails;
- the IEU cannot organise protected industrial action; and
- employers may view the result as a sign that employees are unwilling to support the bargaining campaign.

Conversely, a strong ballot result sends a clear message that members are united and prepared to stand together.

In many cases, the existence of a successful ballot strengthens the union's bargaining position without industrial action ever needing to occur.

WHAT CAN I DO?

Every member plays an important role in achieving a strong outcome.

Keep your membership details up to date

Ballot papers are sent directly to eligible members.

If your email address or mobile number is incorrect, you may not receive your voting information.

Vote

When the ballot opens, cast your vote.

Every vote counts towards the turnout required by law.

Encourage your colleagues

Remind other IEU members to vote.

A high participation rate demonstrates that members are engaged, informed and united.

Stay informed

Read IEU updates, attend workplace meetings and ask questions.

The more informed members are about bargaining, the stronger our collective voice becomes.

STANDING TOGETHER DELIVERS RESULTS

Strong enterprise agreements are achieved when members stand together.

Protected industrial action is always a last resort, but it remains one of the most effective ways employees can demonstrate their commitment to securing fair salaries, manageable workloads and improved working conditions.

Every conversation, every meeting and every vote helps strengthen the bargaining position of IEU members.

**THE IEU
IS PEOPLE
LIKE ME.
JOIN
TODAY.**



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