Over the past few days, we are hearing from some CUPE 3903 members that they are being warned they are at risk of facing legal action by the university for engaging in lawful picketing activity. Rest assured, this is simply not the case. The University respects and supports lawful picketing as an important element of the labour process and we have never suggested nor would we suggest reprisals or discipline for exercising this legal right.

The University has allowed the Union to set up picket lines, trailers, barrels and more on York property; it has refrained from seeking injunctions or from removing the metal barricade gates. However, the existence of a strike does not turn the use of force, threats, trespass or other intrusive and unwelcome conduct carried out by only a few people into lawful behaviour.

Over the course of the strike, we have received several reports of behaviours that go well beyond lawful picketing or peaceful protest and that have had a significant effect on community members. These include forcible confinement of staff members, threats against CUPE members exercising their lawful rights to work during a strike, harassment and stalking of individuals, forced entry into university property and workplaces, and trespassing. It goes without saying that the vast majority of CUPE 3903 members have not engaged in any such activity.

The University has responsibilities to all community members which includes protecting individual rights, responding to individual complaints or concerns and upholding community standards of conduct. Where individuals express a belief that their rights under the law or university policy have been breached, the University cannot simply refuse to consider those complaints. The Union bargaining team is asking that of us-- to prefer the rights of a few to act badly to the rights of the many.

The University has given considerable latitude to lawful picketing in support of the legal right to strike and peaceful protest. Yet the University must also extend the same respect and courtesy to other community members; and honour our obligation to protect the rights of all to enjoy a safe environment for work and study, free of violence, harassment, intimidation and bullying. Where health and safety, violence or harassment are involved it is our legal obligation to thoroughly review the concerns brought forward and take action where appropriate.

It is important to note that the University’s Code of Student Rights and Responsibilities contains express protections for peaceful protest and political dissent. Section 2 of the Code states:
York is committed to civil discourse and the free and open exchange of ideas between community members and as such, nothing in this Code is intended as a method or excuse to suppress peaceful protest, civil debate or other lawful conduct so long as student responsibilities as outlined in Section 4 are being upheld.

Similarly for faculty colleagues there exist in our Collective Agreement agreed upon protections and respect for individual political views, union support or lack of support alongside just cause protection. Anyone subject to a complaint under the Code or other University policies is assured of the rights of natural and procedural justice and rights of appeal.

In mediation this past weekend, to provide additional reassurance that no retaliation is intended against lawful picketing and protest activities, we proposed to CUPE 3903 an extra layer of protection. We offered just cause protection through the grievance and arbitration provisions of the collective agreements (although no collective agreement exists) and, for student community members, we also created a system of independent third party review to ensure any disciplinary response was just. We were surprised that CUPE 3903 responded by indicating that the University was being vindictive or reprising against lawful strike activity. Nothing in what we have tabled does so.