



Nova Scotia Unions Vote Unanimously to Stop Misuse of Non-Disclosure Agreements

In the groundbreaking vote, Nova Scotia Federation of Labour and its member unions, which represent 70,000 workers across the province, vowed to push the government to pass anti-NDA legislation

November 30, 2023 — Unions across Nova Scotia have made history by banding together and vowing to help end the misuse of non-disclosure agreements, or NDAs.

Through two resolutions at its annual convention, the Nova Scotia Federation of Labour — which represents 70,000 workers at more than 350 union locals — voted unanimously to lobby government to ban the use of non-disclosure agreements in cases of workplace sexual harassment, discrimination and other abuses.

The historic vote marks the first time in Canada that a Labour Federation has made a formal call to stop the misuse of NDAs. The vote follows the Nova Scotia Progressive Conservative government's [announcement in September](#) that it would not pass legislation to end the misuse of NDAs, but could not clearly explain why.

“We firmly believe that the Premier and his party share our commitment to upholding victims’ rights to speak out and seek justice. However, recent messages from the Minister have left many questioning his motives, as he has yet to provide any clarifications or responses,” said Danny Cavanagh, President of the Nova Scotia Federation of Labour, in a press release.

“There are no downsides to allowing open discussions and exposing those who harm victims,” he said. “Unfortunately, individuals often feel compelled to sign NDAs as their only means to seek justice and secure compensation for the harm they’ve endured.”

The resolutions point out that employers regularly insist victims sign NDAs to settle grievances, and if they don’t, they can suffer “serious monetary losses due to loss of worktime for many reasons such as fear of re-occurrence, intimidation, and feeling of being forced to leave their jobs.” The resolutions also explain that NDAs “do not obligate the Employer to make any changes to what could be a toxic, abusive workplace” and that they are regularly used to “protect the reputations of institutions and abusers” — including in vulnerable sectors such as schools, universities, and churches. What’s more, NDAs prevent victims from speaking out about the abuses they have suffered and exacerbate their trauma.

“Can’t Buy My Silence applauds the Nova Scotia Federation of Labour’s decision to protect workers from a lifetime of silence. NDAs protect the most powerful people and employers, while harming the most vulnerable — and they hide wrongdoing, which allows perpetrators to continue their abuses,” says Dr. Julie Macfarlane, Emerita Distinguished Professor of Law at the University of Windsor and Member of the Order of Canada, who co-founded Can’t Buy My Silence with Zelda Perkins, the first woman to break her NDA against Harvey Weinstein.

“Now we are calling on unions across the country to follow their lead, and to immediately stop allowing NDAs in cases of discrimination, harassment and other abuses.”

Cavanagh says that until legislation is passed, it’s up to its each member union to decide how to navigate the use of non-disclosure agreements in their own workplaces, but a growing number of unions are pushing back against employers who use NDAs, also known as gag orders or confidentiality agreements.

NDA laws are changing quickly. Legislation has been introduced in [Saskatchewan](#), [British Columbia](#), [Manitoba](#), [Ontario](#) and [Nova Scotia](#), and passed in [PEI](#). In May 2023, Senator Marilou McPhedran also introduced the [Can’t Buy Silence Act](#) — which would bar any federally funded department or agency from using federal dollars to pay for or enforce NDAs in cases of harassment, discrimination and other abuses — and Ontario Labour Minister David Piccini [recently announced](#) his government would launch consultations on banning NDAs in cases of harassment and other forms of misconduct.

Earlier this year, members of [the Canadian Bar Association voted 94 percent in favour](#) of discouraging the use of NDAs in cases of harassment and discrimination, and lobbying for legal reforms. Twenty-one U.S. states have now introduced or passed legislation to restrict the use of NDAs. A growing number of businesses are also shifting their policies, and BBC, Google and Apple are among the many organizations that have pledged to stop using NDAs to cover up misconduct.

Non-disclosure agreements were initially used in workplaces to protect trade secrets. But increasingly they have been used to cover up abuses in government, media, businesses, schools, youth clubs, universities, religious institutions, and other organizations. Meanwhile, victims and whistleblowers experience an added layer of harm as they are prevented from speaking with friends, loved ones, coworkers or even therapists about the abuses they’ve experienced.

Some unions have expressed concern that without NDAs, cases will no longer settle. But according to data from the U.S. Equal Employment Opportunity Commission, in states where NDA laws were passed between 2017 and 2021, rates of settlement actually went up, not down. In 2017, 81 percent of 7,511 sexual harassment claims settled. In 2021, after six states passed legislation forbidding NDAs, 90 percent of claims from those six states settled. This is likely because employers want to avoid arbitration or court decisions, which are public.

“Harvey Weinstein, Peter Nygard and Hockey Canada are just a few of the employers who have used NDAs to silence victims of abuse, but hundreds more are using them every day, and some unions are actually pressuring victims to sign. So it’s encouraging to see Nova Scotia unions stepping up and pushing back against abusive employers,” says Macfarlane. “Hopefully this will inspire unions across Canada to consider their own practices, and to push their governments to pass legislation as soon as possible.”

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- **[More information](#) and [victim testimonies](#) at [Can’t Buy My Silence](#)**

Resolutions Passed at Nova Scotia Federation of Labour's 52nd Annual Convention

Resolution # 12 submitted by Nova Scotia Government Employees Union (NSGEU)

Subject: Non-Disclosure Agreements

The Nova Scotia Federation of Labour will lobby government to ban the use of Non-Disclosure Agreements (NDA) in cases of workplace sexual harassment.

- 1) Because historically, when workplace sexual harassment occurs in a workplace, the employer will insist that parties sign A Non-Disclosure Agreement before it will settle any grievance.
- 2) Because victims of workplace sexual harassment can suffer serious monetary losses due to loss of worktime for many reasons such as fear of re-occurrence, intimidation, and feeling of being forced to leave their jobs.
- 3) Because Non-Disclosure Agreements do not obligate the Employer to make any changes to what could be a toxic, abusive workplace.
- 4) Because the abuse of NDA's are also used to protect the reputation of the employer.
- 5) Because the Nova Scotia Minister of Justice has recently announced that the Nova Scotia government will not be taking any action to limit the use of NDAs.

Resolution # 19 submitted by Nova Scotia Nurses Union

Subject: Stopping the Misuse of Non-Disclosure Agreements in Discrimination and Harassment Cases

The Nova Scotia Federation of Labour will advocate for government to pass legislation limiting the usage of Non-Disclosure Agreements (NDAs) to prevent NDAs from being used to silence victims and whistleblowers.

1. Because NDAs have been used as a means of protecting an Employer's reputation at the expense of victims of abuse, harassment, and discrimination.
2. Because NDAs are regularly used to cover up the abuse of victims in vulnerable sectors such as schools, universities, and churches by protecting the reputations of institutions and abusers.
3. Because victims are often in financially vulnerable situations and may feel coerced into signing an NDA that results in the denial of justice and the ability to discuss their abuse with those in a position to help them.
4. Because NDAs prevent victims from speaking out about their abuse, exacerbating their trauma.