

2020 TV/Theatrical Contracts

Background FAQs

Q/ **What about background actors in the new agreement?**

Background actors benefit from an additional covered position for background actors working in episodic productions under Schedule X-I (the West Coast zones) effective in the second year of the deal, resulting in an additional 2,100 background jobs per year under historical employment patterns. Background actors also benefit from meaningful improvements in the area of nudity and simulated sex. The general wage increase will also translate into millions of dollars for background actors and the improved funding of the benefit plans helps anyone who qualifies.

Q/ **The union needs to negotiate for national background coverage and be prepared to strike to get it if necessary. Why hasn't that happened?**

Under federal labor law, the union could not strike to achieve this objective even if members were prepared to support a strike authorization.

Labor law distinguishes between “mandatory” and “permissive” subjects of bargaining. Mandatory subjects of bargaining include, for example, wages and working conditions. An employer is required by law to negotiate with a recognized union on mandatory subjects and if the union and the employer cannot come to agreement, the union has the ability to strike in pursuit of mandatory subjects like better wages and working conditions. The union and the employer are allowed to bargain on permissive subjects of bargaining, but there is no obligation to do so. So, if the union wishes to negotiate on a permissive subject and the employer refuses, the union cannot strike over that permissive subject.

A proposal for the union to expand the scope of the bargaining unit to represent background actors working outside of the zones described in Schedule X-I (the West Coast zones) and Schedule X-II (the East Coast zones) of our TV/Theatrical contracts would be a permissive subject of bargaining. As such, our TV/Theatrical employers are not obligated to bargain with SAG-AFTRA over the proposal at all — they can simply decline to talk to us about it — and SAG-AFTRA cannot strike to achieve the objective of representing background actors outside of the current zones.

Our TV/Theatrical employers are deeply, rigidly opposed to expanding the union's representation of background actors to include the entire country. Without the leverage of a possible strike, the union does not have the ability to overcome the employers' entrenched opposition on this point in negotiations.

Q/ Can producers cite the pandemic to undermine the value of the additional covered position for background by using “digital doubles”?

The industry has agreed as part of this tentative agreement to meet with the union during the term to work through issues related to scanning and digital doubles.

Even prior to negotiations, however, the union has taken and enforced positions in this area: The use of a “digital double” of a background actor does not count toward the satisfaction of the required minimum number of background positions covered by the contract. When producers engage a background actor, and then scan the background actor on set to create a “digital double,” the use of that “digital double” is limited to the program or picture for which the scan was taken. Any use of the “digital double” in another picture or program requires written consent and compensation.

Therefore, if producers intend to reuse digital scans of our background actor members created for one picture or program to avoid hiring background actors on another picture or program, our position is that members must grant consent and be compensated for the use of their “digital double.” The pandemic has not changed the union’s position on these issues.

That said, our contracts do not and have never required that producers engage a minimum number of background actors (or of any other category of performer) on a day. The contracts require that when producing in the background zones, producers apply the contract to a minimum number of background actors from among the background actors that they do engage. If the producer chooses to shoot with fewer background actors, we cannot compel them to hire more, and this has always been the case for background actors as it has been for every other category.

Q/ Why did the union only achieve one additional covered background actor in TV in year two in this negotiation?

Producers are not indifferent about where they are willing to spend money and they are incredibly resistant to spending it on background actors. In fact, the additional covered position in this negotiation was achieved only at the 11th hour as the price of closing a deal. The fact that we obtained any increased count at all in the midst of a pandemic is a minor miracle.

Q/ Do the improvements in nudity and simulated sex apply to background actors?

Yes, the union made tremendous gains on behalf of background actors in the area of nudity and simulated sex. Improvements during production of scenes involving nudity and/or simulated sex include: A more restrictive “closed set” definition; a prohibition on recording with personal devices like cell phones; requiring background actors to be provided with a “cover-up,” like a bathrobe, when not actually shooting a scene that requires nudity; requiring written consent for still photography or for promotional use of nude photography. The audition related gains were not included because background are not commonly auditioned and the 48-hour review requirement was replaced by an instruction to background casting agencies requiring them to obtain as much information as possible about required nudity and/or simulated sex before booking — a huge improvement over the nothing that exists for background right now on this point.