



**Ministry of
Education**

**Labour Relations
in the
Elementary/Secondary
Education Sector**

Roles and Responsibilities

- The Government:
 - establishes the legislative framework for the collective bargaining process
 - provides the funding framework within which negotiations take place
 - determines through legislation the scope of the issues that can be bargained
- The School Boards:
 - are the employers of record for all employees
 - negotiate collective agreements with teachers, occasional teachers, and support staff

Current Policy Framework

- The *Education Act and Regulations*:
 - determine bargaining unit for teachers and occasional teachers
 - determine the federations (unions) that bargain on behalf of all permanent and occasional teachers
 - Define the scope of bargaining
 - establish a unique definition of strike outside the *Labour Relations Act* applicable to teachers
 - provide duties of teachers
 - define the school year

Current Policy Framework

Teacher Bargaining Agents

- The *Education Act* provides that every permanent and occasional teacher must be represented for collective bargaining purposes by a statutorily designated provincial bargaining agent:
 - public elementary teachers are members of the Elementary Teachers Federation of Ontario (ETFO);
 - public secondary teachers are members of the Ontario Secondary School Teachers Federation (OSSTF);
 - elementary and secondary teachers working for Catholic school boards are members of the Ontario English Catholic Teachers Association (OECTA);
 - elementary and secondary teachers working for French language school boards are members of the Association des enseignantes et des enseignants franco-ontariens (AEFO).
- Two or more bargaining units can combine if all parties agree
 - Many Catholic and francophone federation locals have joint bargaining units
- Two or more boards and federations can negotiate jointly if all parties agree.

Current Policy Framework

Teacher Bargaining Agents (cont)

- While negotiations take place at the local (school board) level ...
 - the statutory bargaining agent for teachers is at the provincial level
 - the statutory bargaining agent for the boards is at the local level
- Provincial federations:
 - set bargaining objectives for locals;
 - provide staff assistance or takeover teams in local negotiations to assure provincial bargaining positions are protected;
 - must sign off a locally ratified agreement before it can take effect

Strikes

- The *Education Act* (S 277.2(4)) states that for teachers:
 - *the definition of strike in the Labour Relations Act does not apply;*
 - *strike includes any action or activity by teachers in combination or in concert or in accordance with a common understanding that is designed or may reasonably be expected to have the effect of curtailing, restricting, limiting or interfering with;*
 - *the normal activities of a board or its employees,*
 - *the operation or functioning of one or more of a board's schools or of one or more of the programs of a board, including but not limited to programs involving co-instructional activities, or*
 - *the performance of the duties of teachers set out in the Act or the regulations under it, including any withdrawal of services or work to rule by teachers acting in combination or in concert or in accordance with a common understanding.*

Strikes

- If teachers engage in work to rule when they are not in a legal strike position, the school board can take the matter to the Ontario Labour Relations Board (OLRB) which would rule as to whether or not the job action constituted an (illegal) strike under the *Education Act*;
 - OLRB could order activities to be resumed
 - OLRB rulings are enforceable in the courts

The Labour Relations Act (LRA)

- The *Labour Relations Act* :
 - establishes the process by which support staff (non-teachers) can join or decertify a union. Provides a definition of “strike” for support staff
 - For both teachers and support staff
 - outlines the procedures for grievance, arbitration and dispute resolution
 - sets the general parameters for the negotiations process
 - provides process which must precede strikes or lock outs

Appendix

The Negotiations Process under the Labour Relations Act

- **Notice to Bargain**
 - either side may give notice to bargain within the 90-day period before the collective agreement is to expire
 - individual collective agreements may include more restrictive provisions.
 - the parties must then meet within 15 days to negotiate in good faith towards a new collective agreement.
- **Continuation of Terms and Conditions**
 - If notice to bargain has been given and the agreement expires before a new settlement is reached, the terms and conditions of the expired agreement continue in force into the bargaining period, and lapse only if there is a legal strike or lockout.

Appendix

The Negotiations Process under the Labour Relations Act

- **Conciliation**

- Once notice to bargain has been given, either party may ask the Minister of Labour to appoint a conciliation officer to help with negotiations. The conciliation officer meets with the parties to attempt to achieve a resolution, and then reports back to the Minister of Labour.

- **No-board Report**

- Following conciliation, the conciliation officer advises the Minister of Labour of any issues that remain in dispute. In theory, the Minister can then appoint a conciliation board to continue the negotiation process; but in practice this never happens. Rather, the Minister of Labour issues a *no-board report* advising the parties that no such board will be appointed.

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The Negotiations Process under the Labour Relations Act

- **Impasse and Sanctions**

- Most collective agreements are settled without conflict.
- The following must occur before employees can strike or boards can lock them out:
 - one party has served the other with notice of intent to bargain
 - their collective agreement has expired
 - there has been conciliation conducted by the Ministry of Labour
 - fourteen days have elapsed since the Minister of Labour advised the parties that no conciliation board will be appointed (that is, after the release of a “no-board report”)
 - for employees, a strike has been supported by a majority of those voting.

Appendix

The Negotiations Process under the Labour Relations Act

- The required process for strikes also applies to lockouts
 - When all conditions have been met, a board may legally lock out its employees
- When the parties are in a legal strike/lock-out position, the school board may impose terms and conditions on the affected employees
 - Must be terms already put on the table by the employer
 - Usually precipitates a strike

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The Negotiations Process under the Labour Relations Act

- **Jeopardy**

- The *Education Act* provides that the Education Relations Commission may advise the LGIC when the school year of students is in jeopardy because of a strike or lockout
 - Usually leads to all-party consent for speedy back to work legislation
 - The government can also enact back-to-work legislation without a “jeopardy advisement”

- **Mediation and Arbitration**

- Both parties may jointly agree to the appointment of a mediator in an attempt to resolve outstanding issues, either before or during a strike. Depending on local circumstances, mediation could be a forerunner to arbitration
- Arbitration is an alternative to the negotiation/sanction process. At any time during the bargaining process, the parties may jointly agree to refer all matters remaining in dispute to final and binding arbitration.