

Module 14 – Part C: Labour Relations and Collective Bargaining

[Legislative Framework]

School boards have a legal responsibility for labour relations with their teaching and support staff. The process for collective bargaining has been evolving in the school board sector and is now governed by the School Board Collective Bargaining Act or SBCBA. The provisions of the Labour Relations Act continue to operate in parallel and apply to activities between employers and unions in our sector.

[School Boards Collective Bargaining Act (SBCBA)]

The SBCBA creates two tiers of collective bargaining – central and local. For the purpose of central bargaining the Act mandates that the province’s four school board/trustee associations are the designated employer bargaining agent in respect of the unions within their member boards. The Act provides for the Crown to participate in central bargaining and to cooperate in good faith with the employer bargaining agents. Local bargaining occurs between the local board and its respective employee groups.

The Act specifically mandates central bargaining for teacher unions and provides mechanisms for support staff unions to group together for the purpose of central bargaining as well. The SBCBA sets out the specific bargaining units that teachers must belong to, as appropriate for their board – for example, ETFO and OSSTF for elementary and secondary English language public schools, OECTA for English Catholic elementary and secondary schools, and AEFO for teachers in both public and Catholic elementary and secondary French language schools.

[Central and Local Issues]

To facilitate the two-tier bargaining model, the SBCBA provides for the negotiating parties to come to agreement on which items are central matters for each round of bargaining. If there are disagreements about whether an item should be central, the parties can refer the issue to the Ontario Labour Relations Board which makes a final decision. Items that have not been designated as central are available to be negotiated in the collective bargaining process at the local school board level.

[Bargaining Process]

The longstanding provisions under the Labour Relations Act pertaining to the collective bargaining process continue to apply to both central and local bargaining – for example, the requirement to give notice to bargain, the requirement to bargain in good faith.

[Possible Stages of Bargaining]

The Labour Relations Act contemplates various stages that can occur on the way to achieving a collective agreement. A desired outcome is for the parties to conduct bargaining and arrive at a successful agreement. Other interventions are also possible:

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- **Conciliation** – Once they have given their notice to bargain, either party can ask the Minister of Labour to appoint a conciliation officer to help them. The Conciliation Officer can meet with the parties and then report to the Minister, advising of issues that are in dispute. While the Minister can appoint a conciliation board this rarely happens and a “no-board report” is issued. This is a step that is required if at a later point the parties reach an impasse and decide to impose sanctions.
- **Strike or lock-out** – Most collective agreements are settled without conflict but if negotiations break down employees have the right to strike and boards have the right to lock out employees. For employees to strike there must have been a no-board report issued and a strike vote taken which is supported by a majority of the employees voting in the strike vote. The union must give the board five calendar days’ notice before strike activity begins. In these circumstances a board can decide to lock out its employees but must also give the union five calendar days’ notice.
- **Mediation** – While the Minister of Labour might then appoint a mediator to assist the parties, they may jointly agree on a mediator to help resolve outstanding differences.
- **Arbitration** is another available alternative that allows the parties to refer all items in dispute to an arbitrator whose decisions will be final and binding.

[Ratification]

The SBCBA stipulates that settlements must be ratified at both the central and local level. For central agreements, it is the school board/trustee associations who ratify through a vote of their member boards. This vote of each school board is weighted to reflect the size of that school board’s bargaining units. The Crown must also agree to the central terms. At the local level, the local bargaining unit and its respective school board ratify the local deal. The resulting collective agreement incorporates both centrally and locally agreed terms.

[Contract Administration]

While the collective agreement is in force unions and employees have an obligation to uphold its terms. The collective agreement can provide for mechanisms for ongoing discussion of matters of mutual concern or allow for the study of matters that could not be resolved during negotiations.

When a dispute arises about the application or interpretation of a term of the agreement, a grievance may be filed. The SBCBA provides for both central and local grievance processes. A local grievance could involve a central term and if it is resolved the resolution would apply only to the local board. In resolving a central grievance, the Crown has a right to intervene and must agree to the settlement.