

Module 14 – Part B: Employment Law in the Education Context

[Legislative Framework]

Many pieces of legislation affect the employment relationships in a school board. The legislative framework is complex and multifaceted. School boards must operate in the context of the following framework:

- The legislation in blue emanates from the Ministry of Labour and applies to all employers in the province.
- The legislation in green applies exclusively to the Education sector.
- The legislation in purple emanates from other Ministries and commissions and applies beyond the employment context.

Your Human Resources professionals are familiar with this legislation as it applies to your board.

[Education Act and Regulations]

The Education Act and Regulations are the foundational legislation that guides the work of school boards from both an administrative and instructional perspective.

[Ontario College of Teachers Act]

The Ontario College of Teachers is the certifying and regulatory body for all teachers. Teachers, principals, superintendents and directors of education are members of the College.

[Labour Relations Act]

Labour Relations staff in the board's Human Resources department have a good working knowledge of the Labour Relations Act. They work with principals and supervisors to ensure that its provisions are followed.

[School Boards Collective Bargaining Act]

In 2014 the School Boards Collective Bargaining Act (SBCBA) came into force. This now regulates how collective bargaining will be conducted in the school board sector. It provides for two-tier bargaining with central tables for issues that are common across the province and local tables for issues to be bargained at the local school board. The parties to central bargaining are Employee Bargaining Agents (Teacher and Support Staff Unions), Employer Bargaining Agents (School board/Trustee Associations) and the Crown (the provincial government). Part C of the Human Resources Module provides greater details.

[Employment Standards Act]

These minimum standards apply to all workers. Unionized employees have, in many cases, negotiated superior provisions in their collective agreements.

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[Occupational Health and Safety Act]

The safety of all students and employees is of paramount importance to school boards. The Occupational Health and Safety Act applies to all school board employees. Workers who are not teachers have the right to refuse to do work if they feel the situation is unsafe. Such a work refusal would trigger a Ministry of Labour inspection of the workplace and a report and order to the employer with measures to rectify the situation. Teachers' rights to refuse work are limited by Ontario Regulation 857. They have a duty to ensure student safety and are obligated and empowered to manage the situation safely while seeking assistance as required.

[Workers' Safety and Insurance Act]

School boards are required under the Workers' Safety and Insurance Act to file workplace injury claims for adjudication and to provide appropriate accommodation for injured workers. In most school boards, this responsibility resides in the Human Resources department.

[Employment Insurance Act]

Human Resources staff process information about cessation of employment and work with the board's payroll department to ensure documentation and processing of Records of Employment.

[Pay Equity Act]

The Human Resources department is responsible for the development and posting of pay equity plans and for maintaining these plans to ensure fair and equitable compensation for employees.

[Ontario Human Rights Code]

The Ontario Human Rights Code applies to everyone. It is a provincial law that gives everybody equal rights and opportunities and freedom from discrimination in areas such as employment, housing and services. The Code's goal is to prevent discrimination and harassment. Some of the protected grounds identified in the Code are: race, colour, creed ethnicity, sex, marital status, gender identity/expression, sexual orientation and disability.

[Accessibility for Ontarians with Disabilities Act]

The Accessibility for Ontarians with Disabilities Act has the goal of making Ontario accessible for people with disabilities by 2025. Accessibility Standards have been enacted in regulation and address Customer Service, Information and Communications, Employment, Transportation and Design of Public Spaces. School boards are required to establish accessibility policies and multi-year plans to implement these standards and to provide training to employees. Compliance reports are required every two years.

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[Municipal Freedom of Information and Protection of Privacy Act]

The purposes of this Act are twofold:

- To provide a right of access to information under the control of institutions in accordance with the principles that:
 - Information should be available to the public.
 - Necessary exemptions from the right of access should be limited and specific.
 - Decisions on the disclosure of government information should be reviewed independently of government.
- To protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to that information.

[Child and Family Services Act]

School staff are reminded on a regular basis of their obligations and responsibilities under this Act.

[Criminal Code of Canada]

The Criminal Code of Canada codifies most of the criminal offences and procedures in Canada. The Canadian Constitution places criminal law under the sole jurisdiction of the federal government. Other important Canadian criminal laws are the Firearms Act, the Controlled Drugs and Substances Act, the Canada Evidence Act, the Food and Drugs Act, the Youth Criminal Justice Act and the Contraventions Act. The Youth Criminal Justice Act often comes into play during school proceedings.