

Local Association Leadership Program



# ***Resource for Local Implementation and Negotiation Committees***

*October 2018*





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# Preamble



The purpose of this document is to provide a comprehensive resource for the Local Implementation and Negotiation Committees regarding the local collective bargaining process and the procedures supporting the process. The objectives in providing this resource for LINC are to:

- Develop a common understanding of the complexities of the bi-level bargaining structure.
- Support the legislated role of local bargaining committees.
- Make explicit the legislated responsibilities of local bargaining committees.
- Strengthen the local bargaining process.

This document is primarily intended to be used by LINC chairpersons and committee members to inform them about the local bargaining process, to detail the requirement of the committee as set out in *The Education Act, 1995*, and to provide information and resources to support LINC as they exercise their roles and responsibilities within the bi-level bargaining structure. The work of the LINC is carried out in accordance with the governance framework of the Saskatchewan Teachers' Federation.

The *Resource for Local Implementation and Negotiation Committees* is available to LINC chairpersons in hard copy. The document is also available when logged in to the Federation website at [www.stf.sk.ca/teaching-saskatchewan/collective-bargaining/local-bargaining](http://www.stf.sk.ca/teaching-saskatchewan/collective-bargaining/local-bargaining).

# ***The Context for Teacher Collective Bargaining in Saskatchewan***



Teachers believe that collective bargaining secures conditions that support the best possible professional service to students. Collective bargaining is a dynamic process influenced by a multitude of professional, political, social and economic factors. The purpose of the bargaining process at the local and the provincial levels is to reach agreements that address as many issues and bargaining objectives as possible for the parties involved. The benefits and advancements of collective agreements are built over time and achieved according to the values and beliefs expressed by the parties to the agreement in an effort to improve the quality of public education in Saskatchewan schools. Local agreements are intended to meet the specific needs of the teachers in the school division, to advance the collective professional supports for teachers generally and to honour the ethical obligations of the profession.

The relationship between the Local Implementation and Negotiation Committee and the bargaining committee of the board needs to be managed carefully and be respectful of the process as outlined in *The Education Act, 1995*. These relationships are complex given the employer-employee relationship that exists between teachers and their board. The success of local negotiations and the implementation of the agreement are largely dependent upon the nature of the relationships between the committees. The tone of the bargaining relationships often sets a precedent for future negotiations and for the ongoing relationship between the board and the local association. LINC's and the bargaining committees for the board often engage in bargaining training focused on strategies and tactics that will support an environment where frank, open and honest dialogue can occur as a means of reaching an agreement that secures conditions at the local level to support the best possible professional service to students.

Contributing to the context of teacher bargaining are the established values and beliefs of teachers regarding the process. The Council of the Federation approved the following collective bargaining policy in April 2017 as a measure to support the bargaining processes at the provincial and local levels by formally publishing those values and beliefs. Organization policies are located in the STF Governance Handbook.

# ***Saskatchewan Teachers' Federation Collective Bargaining Policy***



## **Definitions**

Collective bargaining between groups of employees and employers is a right protected within the concept of freedom of association, which is recognized in international human rights conventions and in Section 2 (Fundamental Freedoms) of the *Canadian Charter of Rights and Freedoms*.

Teacher collective bargaining is the method whereby teachers negotiate with employers and government for terms and conditions of employment as defined within the legislative framework for the PreK-12 education system in Saskatchewan.

Collective bargaining agreements outline the terms and conditions of employment, grievance procedures, and joint committees, understandings or agreements accepted by all parties upon conclusion of negotiations.

## **Beliefs**

- (1) Collective bargaining enhances the human dignity and liberty of teachers as professionals by providing them with a collective voice and process to influence their employment relationships and environments.
- (2) Collective bargaining is intrinsically valuable as an experience in collectivity for members of the teaching profession in Saskatchewan.
- (3) Teacher collective bargaining should be characterized by respectful, constructive and professional interactions between the parties to the negotiations and agreements.
- (4) Teacher collective bargaining is strengthened by opportunities for members to participate in processes and decision making within the legislative framework in the province and the governance structure of the Saskatchewan Teachers' Federation.
- (5) Teacher collective bargaining agreements should:
  - (a) Be fair, comprehensive and holistic by addressing each of the interrelated components of compensation, benefits and working conditions.
  - (b) Secure conditions that support the best possible professional service.
  - (c) Serve to attract and retain capable and qualified people to the teaching profession in Saskatchewan, and enhance the professional status of teachers and the teaching profession.
  - (d) Provide the collective of Saskatchewan teachers with necessary supports for professional and personal well-being.
- (6) Any changes to the legislative framework governing teacher collective bargaining in Saskatchewan must include opportunities for meaningful consultation with the Federation.
- (7) Therefore, teachers individually and collectively:
  - (a) Negotiate in good faith with the parties to the collective bargaining agreement and model respectful, constructive and professional relationships within the collective and in public during collective bargaining.

- (b) Negotiate collective bargaining agreements that recognize and support the fundamental benefits of publicly funded public education for students and society, and the central role that teachers have as leaders and providers of education in Saskatchewan.
- (c) Support and encourage opportunities for the participation of teachers in collective bargaining processes while recognizing the distinct roles and responsibilities of those groups of teachers authorized to act on the collective's behalf.

(2017)

# Bi-Level Bargaining

Collective bargaining is a process by which teachers and their employers address issues of significance in order to secure conditions that support the best possible professional service to students. Teacher collective bargaining in Saskatchewan is a bi-level process set out in sections 234 to 269 of *The Education Act, 1995*.

*The Education Act, 1995* states which items are mandatory for negotiations at the local level and at the provincial level; however, negotiations may be expanded provided that the mandatory items remain exclusive as set out in legislation.

**The local agreement takes precedence when an item is first negotiated locally and is subsequently negotiated provincially as determined in sections 237(4) and (5) of *The Education Act, 1995*.**

## Provincial Level

Section 234(1) of *The Education Act, 1995* authorizes the STF Executive of the Saskatchewan Teachers' Federation to appoint the Teachers' Bargaining Committee. The Teachers' Bargaining Committee negotiates the mandatory items set out in Section 237(1) (a) of *The Education Act, 1995*, as well as additional items related to direct compensation, teaching and learning conditions, and pensions and benefits. The mandatory items at the provincial level include:

- Salaries of teachers
- Allowances for principals and vice-principals
- Superannuation
- Group life insurance
- Criteria respecting the designation of persons as not being teachers
- Duration of agreement
- Sick leave

## Local Level

Section 235(2) of *The Education Act, 1995* authorizes the teachers employed by a board of education to appoint a bargaining committee to have exclusive authority and be the sole party to bargain on behalf of teachers. STF Bylaw 4 (Local Associations) identifies the Teachers' Bargaining Committee at the local level as the Local Implementation and Negotiation Committee. The LINC negotiates the mandatory items set out in Section 237(2) (a) of *The Education Act, 1995*, as well as additional items related to working conditions. The mandatory items at the local level include:

- Sabbatical leave
- Educational leave
- Salaries for substitute teachers
- Duration of the local agreement
- Pay period for teachers
- Special allowances

# Definitions



The following terms are used in teacher collective bargaining at the local and provincial levels. Local association leaders and LINC members are encouraged to become familiar with these terms and how they are used within the context of the bargaining process.

## **Arbitration**

A process for settlement of disputes defined in sections 244 to 250 and Section 260 of *The Education Act, 1995*. In this process a panel is selected to hear submissions from each party to a collective bargaining dispute. Judgments made by the panel are binding upon both parties.

## **Bargaining Spokesperson**

The person appointed by a bargaining committee to speak on behalf of the committee at the bargaining table. The spokesperson representing teachers in local negotiations is determined according to the constitution of the local association as per STF Bylaw 4 (Local Associations) Section 4.7.3(7) which states that every constitution shall provide for the conduct of local bargaining and the ratification of local agreements.

## **Bi-Level Collective Bargaining**

A structure and a process, set out in sections 234 to 269 of *The Education Act, 1995*, by which teachers and their employers address issues of significance at the provincial and local levels in order to secure conditions that support the best possible professional service to students.

## **Conciliation**

A process for settlement of disputes as defined in sections 252 to 259 of *The Education Act, 1995*. In this process a panel is selected to hear submissions from each party to a collective bargaining dispute. An application to the Educational Relations Board for conciliation may come from either party to the agreement. The difference between an arbitration and conciliation panel is that an arbitration panel makes a final decision that is binding on both parties, whereas the purpose of a conciliation panel is to assist the parties in concluding an agreement. A conciliation report may be binding if both parties have agreed to the terms of the report presented. The conciliation board's report may be binding if the parties agree prior to the time the report is written to accept the terms of the report.

## **Dispute/Impasse**

A dispute is a point in negotiations where progress toward concluding a tentative agreement has stalled.

## **Educational Leave**

A leave of absence granted by the employing school division to a teacher for the purposes of continued education. Educational leave is one of the mandatory items for negotiation at the local level.

## **Educational Relations Board**

As constituted in Section 241 of *The Education Act, 1995*, the Educational Relations Board is a provincially legislated board that oversees the processes for settlement of disputes in teacher collective bargaining.

## **Grievance**

A grievance is a formal complaint process used to resolve differences in meaning or application of the collective bargaining agreement. A process for the arbitration of grievances is outlined in Section 261 of *The Education Act, 1995*. Local agreements include contract language detailing a grievance process which includes reference to Section 261.

## **LINC (Local Implementation and Negotiation Committee)**

A Saskatchewan Teachers' Federation term used to identify the committee appointed by the teachers to negotiate a local collective bargaining agreement with the board. The LINC is constituted by the local association in accordance with *The Teachers' Federation Act, 2006*, STF bylaws and local association constitution.

## **Mediation**

A process for settlement of disputes as defined in Section 243 of *The Education Act, 1995*. It describes a process of appointing a single person to assist the parties in resolving their differences. Both parties must agree to enter mediation.

## **Negotiations**

Processes used to address employee/employer issues at the provincial and local bargaining tables.

## **Pay Periods for Teachers**

A schedule for the pay periods for teachers employed in the school division. Pay periods for teachers is a mandatory item for negotiation at the local level.

## **Ratification**

Ratification is a process that enables teachers to vote for either accepting or rejecting a tentative agreement. The specific process for ratification is determined by the local and defined in the constitution. Ratification processes are based on the principles of transparency, fairness, accessibility, accountability and accuracy.

## **Sabbatical Leave**

A leave of absence granted by the employing school division to a teacher for the purposes of travel, study and/or rest as defined by the agreement. Sabbatical leave is one of the mandatory items for negotiation at the local level.

## **Salary**

Remuneration including basic salary and allowances that are pensionable according to

pension plan regulations. Basic salary for teachers and allowances for principals and vice-principals must be negotiated at the provincial level. Special allowances for teachers must be negotiated at the local level. The salary received by teachers in Saskatchewan must be in accordance with the provisions of the provincial and local agreements.

### **Salaries for Substitute Teachers**

Direct compensation for teachers employed on a day-to-day basis as required to replace a teacher who is temporarily absent from his or her regular duties. Salaries for substitute teachers is one of the mandatory items for negotiation at the local level.

### **Sanctions**

Sanctions are a range of actions used to enforce bargaining positions. Sanctions can only be considered if dispute resolution processes are unsuccessful. Sanctions are not mentioned as part of the collective bargaining process for teachers as set out in sections 234 to 269 of *The Education Act, 1995*.

### **Special Allowances**

Direct compensation for teachers appointed to a position of added responsibility as defined in the job description. Special allowances is a mandatory item for negotiation at the local level. The salary and allowances received by teachers in Saskatchewan must be in accordance with the provisions of the provincial agreement, the local agreement and pension plan regulations.

### **Substitute Teacher**

A teacher employed on a day-to-day basis as required to replace a teacher who is temporarily absent from his or her regular duties.

### **Teacher (Saskatchewan Teachers' Federation Member)**

A person that holds a valid certificate of qualification to teach in schools in Saskatchewan and has been deemed to have entered into a contract of employment with a board of education or conseil scolaire as per Section 200 of *The Education Act, 1995*.

### **Tentative Agreement**

An agreement reached by the parties at the bargaining table that is presented for ratification to teachers and to boards of education.

### **Term of Agreement**

The specified length of the agreement as outlined in Section 265 of *The Education Act, 1995*. The Act states that a collective agreement continues until a new agreement is signed.

### **Terms of Employment**

Terms of employment refers to the offer, acceptance and confirmation of a contract of employment in the prescribed forms and the conditions incorporated in the provincial and local agreements as defined in Section 209 of *The Education Act, 1995*.

# ***The Legislative Framework for Local Collective Bargaining***

The legislative framework supporting local collective bargaining for teachers in Saskatchewan is provided through *The Education Act, 1995* and *The Teachers' Federation Act, 2006*. In turn, *The Teachers' Federation Act, 2006* provides the basis for STF bylaws and STF policy which provide support for the process.

## ***The Teachers' Federation Act, 2006***

The constitution of the Saskatchewan Teachers' Federation includes *The Teachers' Federation Act, 2006* and the bylaws. The policies of the Federation are intended to articulate the values and beliefs of the profession within the legislated mandate of the organization. The legislated authority for local collective bargaining is established by the constitution of the Federation. The STF policy on Collective Bargaining approved by Council 2009 articulates the beliefs Saskatchewan teachers hold about collective bargaining at the local and provincial levels.

In accordance with Part II, Section 4(1) of *The Teachers' Federation Act, 2006*, the Federation has all the powers necessary to carry out the purposes of the Federation and to exercise the rights and authorities set out in the Act. One of the purposes of the Federation is to represent teachers in collective bargaining in accordance with *The Education Act, 1995*. Subject to the procedures set out in Part III, Section 14 of *The Teachers' Federation Act, 2006*, Section 15 authorizes the Federation to make bylaws for the following purposes:

- Establishing local associations.
- Prescribing the eligibility criteria for members of local associations.
- Prescribing the officers of the local associations and governing procedures for the election of those officers.
- Prescribing the duties of officers of local associations.

STF Bylaw 4 (Local Associations) sets out the purposes, establishment, membership, duties and responsibilities, limitations, fees and constitutional requirements of local associations as part of the governance structure of the Federation.

STF Bylaw 4 (Local Associations) Section 4.1.1(3) states that one of the purposes of local associations is to bargain collectively on behalf of members for a local collective bargaining agreement subject to the local bargaining provisions of *The Education Act, 1995*. It is a duty and responsibility of the local association to elect or appoint a person to chair the local bargaining committee for teachers, which is named in Federation bylaw as the Local Implementation and Negotiation Committee, and to make provisions for the negotiation of the local collective bargaining agreement or agreements in accordance with the provisions of *The Education Act, 1995* and such policies as may be adopted by the Federation.

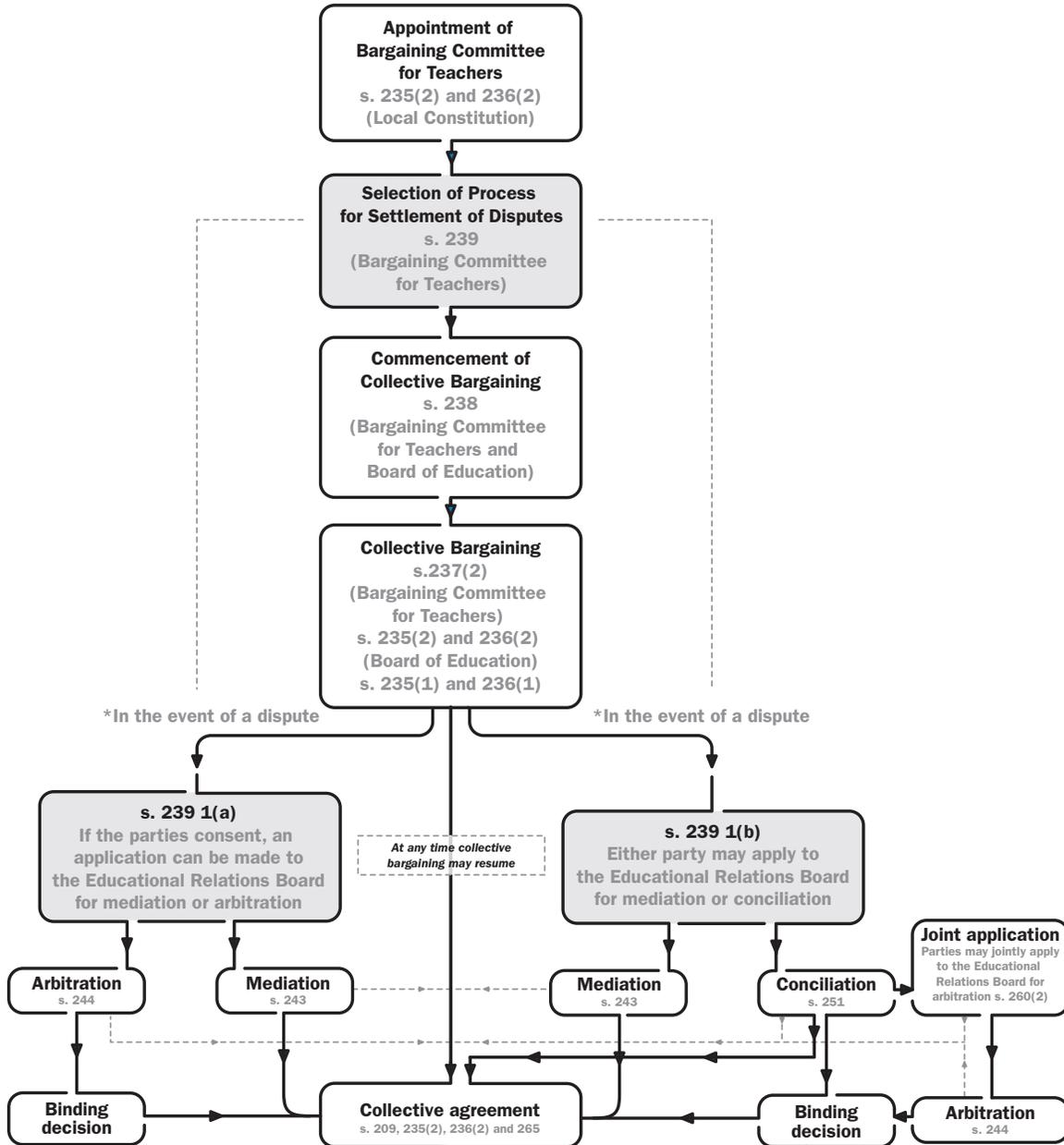
STF Bylaw 4 (Local Associations) Section 4.7.3(7) on local associations asserts that the conduct of local collective bargaining and the ratification of local collective agreements must be provided for in the local association constitution.

## The Education Act, 1995

The Education Act, 1995 establishes the process for bi-level teacher collective bargaining in Saskatchewan. This graphic illustrates the flow of the local collective bargaining process and references sections of the Act that speak to the steps in the process. A detailed explanation of the steps follows.

### THE Local Collective Bargaining Process

as outlined in The Education Act, 1995



\*Local Bargaining Committee for Teachers (LINC) will consult with Senior Administrative Staff member prior to making applications under section 239 1(a) or 239 1(b)

## Appointment of Local Implementation and Negotiation Committee

Section 235(1) of *The Education Act, 1995* states that each board of education shall bargain with the teachers employed by it with respect to the matters set out in Section 237(2).

Section 235(2) states the teachers employed by a board of education shall appoint a bargaining committee to have the exclusive authority, and be the sole party, to bargain collectively on behalf of all the teachers employed by that board of education with respect to the matters set out in Section 237(2) including sabbatical leave, educational leave, salaries for substitute teachers, the duration of the agreement, special allowances and any other matters ancillary to the listed items provided they are not listed as mandatory at the provincial level.

The composition of the LINC is determined by the local association and is described in the local association constitution which is approved by the Executive of the Saskatchewan Teachers' Federation.

## Selection of Process for Settlement of Dispute

Sections 239(1)(a) and 239(1)(b) of *The Education Act, 1995* describe the processes for the settlement of disputes during negotiations. The Act states that the bargaining committee appointed by the teachers at the local level must provide a written notice to the employing board of education specifying the preferred process for resolution of disputes no later than 101 days prior to the expiration of the existing collective agreement. The Act also states that written notice must be filed with the chief executive officer of the Educational Relations Board. The two dispute process options are described as follows:

- **239(1)(a)** permits either party to the agreement to apply for mediation, and/or binding arbitration, if the parties consent, as described in sections 243 to 250.
- **239(1)(b)** permits either party to apply for mediation and/or conciliation, and if conciliation fails, to jointly apply for binding arbitration as described in sections 251 to 260.

The selection of a process for dispute resolution in the event of an impasse in and of itself is a strategic decision that should be considered carefully and made in consultation with advice from the Federation. This decision is generally informed by the current political and economic environment, the experiences in previous cycles of bargaining, and how the local collective agreement compares to other agreements.

The process set out in Section 239(1)(b) has been the more usual process selected and typically allows for more control and exit strategy options than the processes of Section 239(1)(a). The processes in Section 239(1)(a) could result in being moved towards binding arbitration where an arbitrator can decide on the outcome of the agreement and thus both parties losing control over the process.

In the event of a dispute, the LINC may apply to the ERB for the implementation of a process for settlement of the dispute in accordance with the selection made by the LINC prior to the commencement of bargaining. The ERB is the legislated body that determines whether or not dispute resolution processes will be granted. If a LINC determines it is at a point in negotiations where further progress toward the conclusion of a tentative agreement is not possible, it should request support from the provincial organization through the STF senior administrative staff member supporting bargaining. The administrative staff of the Federation will assist in determining if an application for settlement of the dispute should be made to the ERB. If an application is made, the Federation administrative staff will support the LINC and the local association in

preparation for and involvement in the process to resolve the dispute. The costs to teachers for engagement in processes to settle local bargaining disputes are covered by the Federation.

(Appendix 1: Sample letter for process for settlement of disputes)

### **Commencement of Collective Bargaining**

In order to begin the process of local collective bargaining, the LINC chairperson sends a notice of intent to the chairperson of the employing board of education. As legislated within *The Education Act, 1995*, bargaining must commence not later than 100 days prior to the expiration of the existing collective agreement. Adherence to dates set out in legislation removes potential barriers that may arise as the process unfolds.

(Appendix 2: Sample letter for time of commencement of collective bargaining)

### **Negotiations**

In accordance with *The Education Act, 1995*, negotiations must commence not later than 100 days prior to the expiration of the existing agreement. To begin the negotiation process, both parties need to agree when and where negotiations will take place. After the official notification has occurred, the bargaining committees will typically commit to a series of tentative dates for bargaining sessions to take place. If the parties are unable to physically meet within the required timelines, it is appropriate for the chairpersons to meet and set out future meeting dates. Some local bargaining committees also commit to a particular model of bargaining and seek joint educative opportunities to support the process.

During the negotiation sessions, the LINC and the bargaining committee for the board will bring their issues, as identified by their constituents, to the bargaining table. Teacher issues shared with the bargaining committee of the board are based on information the LINC has gathered from the members of the local association and are substantiated by agreed-upon data and/or research provided by the teacher and/or the board. LINC's are strongly encouraged to seek the supports of the Federation and communicate regularly throughout the preparation, negotiation and evaluation phases of bargaining with the STF senior administrative staff supporting bargaining. The STF senior administrative staff's role is to support the process, share information about the issues and achievements in other school divisions, provide background on potential implications for the profession and offer advice and assistance as needed.

Negotiation sessions between the LINC and the bargaining committee for the board are conducted in private and face to face. Prior to negotiations, the parties may choose to establish media release protocols if deemed necessary. It is helpful if the parties agree to inform and involve one another in media release decisions. It is expected that LINC's will have a plan for reporting on the progress of bargaining to the local association executive and membership. The LINC may choose to share this plan with the bargaining committee for the board as information.

If during the course of negotiations the LINC determines that progress is not achievable, the committee has the option of considering a process for settlement of the dispute. If, through a thorough risk analysis among the LINC, the local association executive, the membership of the local and the Federation, through the STF senior administrative staff, it is determined that no further progress can be made toward concluding a tentative agreement, then an application for a process for settlement of the dispute can be made by

the LINC to the ERB. The purpose of the processes for the settlement of disputes is to assist the parties in continuing the negotiation process and to reach a tentative agreement.

The ERB is a legislated board with specific duties as outlined in sections 241 to 242 of *The Education Act, 1995*. The ERB oversees teacher collective bargaining processes and is responsible for considering application requests and for establishing mediation, conciliation or arbitration boards during negotiations. The ERB consists of two representatives appointed by the Federation, two representatives of the Saskatchewan School Boards Association and a chairperson who is agreed upon by both parties. If both parties cannot agree on the chairperson, one is named by the Chief Justice of the Queen's Bench. The Federation and the Association each submit the names of their nominees to sit on the ERB to the Ministry of Education. The nominees are appointed by an order-in-council to serve a four-year term.

### **Mediation**

In the event mediation is chosen as a dispute resolution process, the ERB will appoint a single mediator who meets with both parties in an effort to help them resolve differences with the intent of bringing the two parties back to the bargaining table. Mediation is usually necessary when it is the relationships between the parties that are impeding progress toward reaching an agreement.

### **Conciliation**

In the event conciliation is chosen as a dispute resolution process, each party, through their respective provincial organization, will appoint one person to the conciliation board and one person who is mutually agreed upon by both parties to chair the panel. If the two parties are unable to reach an agreement on who should be the chairperson, one will be appointed by the chairperson of the ERB.

A conciliation board listens to arguments presented by the two parties and attempts to bridge their differences and facilitate negotiations to assist the two parties in reaching an agreement. If the parties cannot reach an agreement, the conciliation board develops and presents a report. The terms of the report are not binding unless the parties agree, in writing prior to the report being written, that the terms will be binding. Establishing a conciliation board is usually necessary when the issues and barriers separating the parties are content based as opposed to relations based.

### **Arbitration**

In the event that arbitration is chosen as a dispute resolution process, each party, through their respective provincial organization, will appoint one person to the arbitration board. The two appointees will mutually agree upon who will chair the panel. If the two parties are unable to reach an agreement on who should be the chairperson, one will be appointed by the chairperson of the ERB.

It is important to be aware of the differences between mediation, conciliation and arbitration in addition to the differences between how arbitration process requests can be made. For instance, if the majority of members on an arbitration panel agree on a

particular decision item, it is considered to be a decision of the arbitration board and is binding on both parties regardless of further input from either party. Therefore, if both parties are intent on pursuing arbitration as a dispute resolution process, both parties risk losing control over the outcomes of the bargaining process. This is an important consideration in the selection of the process for settlement of disputes.

As mentioned previously, Section 239(1)(a) allows either party to make a request for arbitration, provided the parties consent, whereas Section 239(1)(b) requires that both parties jointly request arbitration if the conciliation process does not result in an agreement. The benefit of process 239(1)(b) is both parties need to communicate to make the request, and this communication may instigate an assessment of the implications for arbitration for both parties.

It is the responsibility of the parties to conclude an agreement. The purpose of the processes for settlement of disputes is to assist the parties in carrying out that responsibility with third-party support. The parties to the agreement may return to the bargaining table to resume negotiations at any time during the dispute resolution processes.

## Sanctions

*The Education Act, 1995* does not explicitly state or condone the use of sanctions as a dispute resolution process. However, our history has supported the use of sanctions if the dispute resolution processes of mediation or conciliation do not result in an agreement or if the ERB denies a request to pursue either mediation or conciliation. If all avenues prior to the imposition of sanctions have been exhausted, then the local association membership may be required to consider sanctions. If the local association determines sanctions are necessary, it is their responsibility to call for job action. However, the Federation must be convinced there has been a significant violation of the principles that underlie the bargaining interests of teachers in order for sanctions to be supported. A withdrawal of service is serious and may be perceived by the other party and the public as an ultimate form of political persuasion and not in the best interest of public education. It may also be perceived by the government as being outside of the provisions of *The Education Act, 1995*. It is therefore imperative that the situation be carefully considered and evaluated and that exit strategies for every negotiation manoeuvre be developed. Since every strategy has implications, all exit strategies should be fully explored before being implemented.

Sanctions are a range of actions used to enforce bargaining positions. Sanctions can only be considered if dispute resolution processes are unsuccessful. Three outcomes could occur during sanctions:

- The LINC and the bargaining committee for the board could agree to return to the bargaining table.
- The board of education could impose sanctions of its own that might include a lockout.
- The government could impose back-to-work legislation on teachers in the local.

In the event that limited or full job action takes place over a local collective agreement, the STF Executive is responsible for deciding whether or not compensation will be provided to teachers from the STF Contingency Fund.

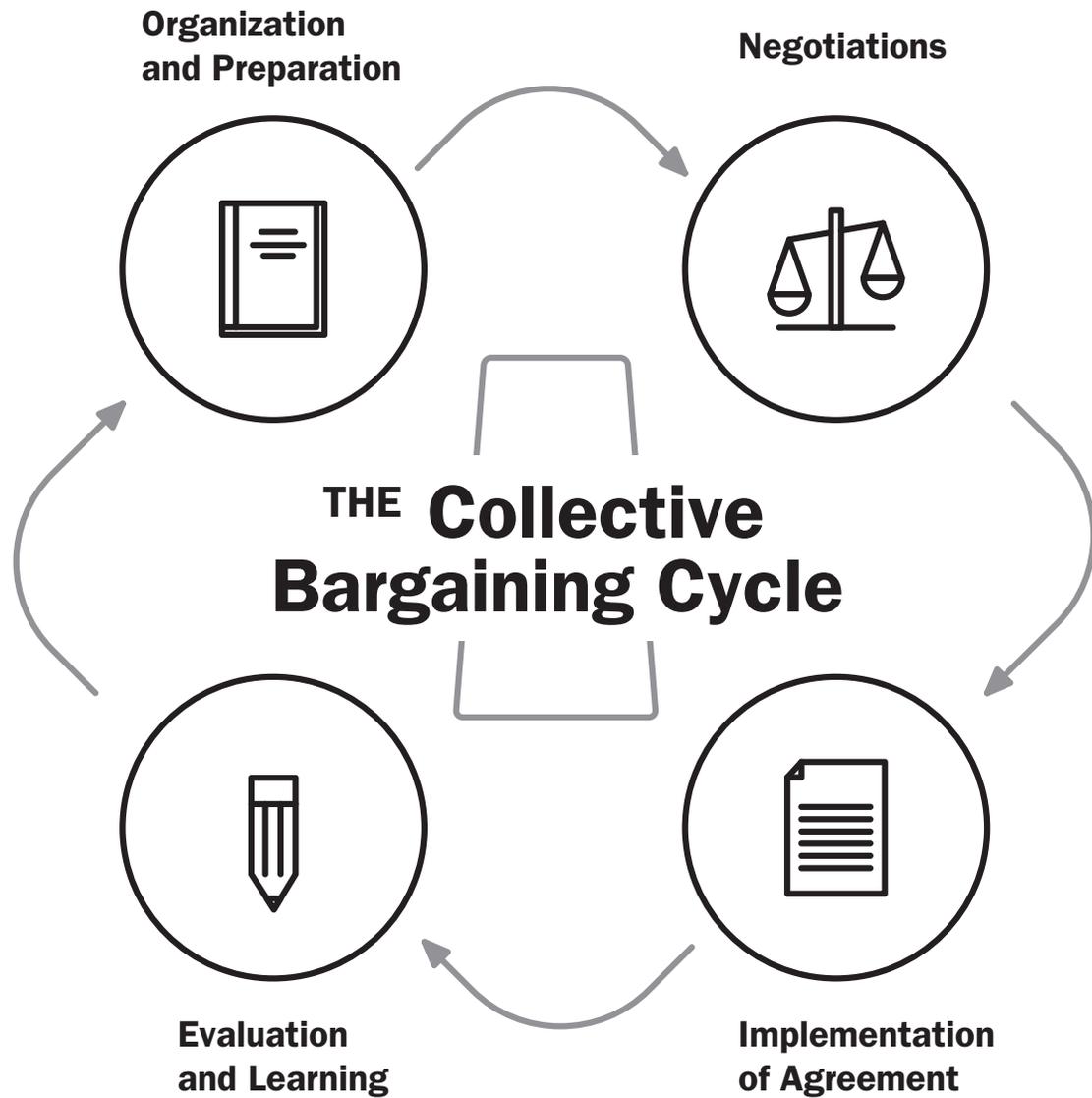
It is important to note that sanctions may or may not influence the negotiations as intended.

## **Tentative Agreement**

Once the LINC and the bargaining committee for the board reach a tentative agreement, the bargaining process as set out in *The Education Act, 1995* is concluded. The LINC, according to the ratification provisions established by the membership in the local constitution, presents the tentative agreement to the membership. A tentative agreement is reached when:

- The LINC has pursued all available avenues, has been continually evaluating the progress of negotiations and has assessed, utilized and exhausted every available option for moving the process forward.
- The LINC and the local association executive have engaged in continual consultations and collaborative decision making and have a shared understanding about the events of bargaining.
- Teachers have been informed and have been encouraged to participate in activities for consultation purposes that inform the bargaining process.
- The LINC believes this is the best agreement that can be achieved and that it is a fair and reasonable agreement for teachers in the current context.

# *The Cycle of Bargaining*



## **The Cycle of Bargaining**

Local collective bargaining is an ongoing process that includes four overlapping and interdependent phases: preparation, negotiation, implementation and evaluation. The work undertaken in each phase has a different focus but care and attention is needed when developing and carrying out plans and procedures in a manner that complements the process as a whole.

### **Preparation Phase**

The overlying purpose of the preparation phase is to establish the priorities and the long-term needs and aspirations of the profession using a variety of member engagement opportunities. As a means of achieving this mandate, teachers must have access to the information that will support their understanding of the bargaining process and of their individual and collective roles in the process. The role of the local association executive and the LINC includes providing opportunities for members of the local to learn about bargaining, to engage in conversations about the current bargaining context and the issues and needs of teachers to be addressed in this set of negotiations through the STF senior administrative staff supporting bargaining.

Following the completion of information gathering, the LINC determines how the interests of teachers will be brought to the bargaining table. It is important that the membership is fully aware and supportive of the issues that will be discussed on their behalf. Some local associations develop a specific set of proposals that are approved by the membership for discussion at the bargaining table while others identify the interests of teachers in a broad and general way. The element that is common to the variety of approaches used is full and complete communication with the membership about the process. The success of the negotiations often rests on the level of involvement the membership feels it has in the preparation phase and the communication among the LINC, the local association executive and the membership.

### **Negotiation Phase**

The purpose of the negotiation phase is to achieve the best possible agreement for local association members in the current context. This involves resolving issues as identified by teachers to the best of the LINC's ability given the real world political, social, economic and legal context and limitations inherent within the bargaining process.

The negotiation phase involves engaging the bargaining committee for the board with strategies that require the board to understand the salience of teacher issues and how these issues relate to the well-being of both teachers and the quality of public education in their school division. These strategies include, but are not limited, to the following:

- Creating norms of engagement mutually agreed upon by both parties and that support the principle of respectful interaction while asserting teacher needs.
- Presenting a descriptive picture of the teaching and learning experiences of teachers in order to make explicit the issues that impede a teacher's ability to provide the best professional service to students. The issues must be grounded in research and presented with anecdotes of teachers' lived experiences.
- Careful and active listening in order to better assess the content of messages received from the bargaining committee for the board.

- Paying close attention to the construction, delivery and impact of teacher messages.
- Continual testing of the assumptions held by both parties, which involves an effort to understand and empathize with board perspectives in ways that will assist in pursuing successful solutions to teacher issues.
- Ensuring the development, delivery and content of materials brought to the table are thorough, sound and clear to bargaining participants.
- Continually scanning and researching relevant sources pertaining to bargaining.
- Information sharing among the LINC, the local association executive and the local association membership.
- Exploring a range of methodologies for analyzing data to ensure the information used in the negotiation process is accurate.
- Constructing and presenting proposals that emphasize the connection between negotiation principles and the process.
- Establishing transparency with the LINC and the local association executive through member engagement planned communications and opportunities for conversation.

Once the LINC has determined that the negotiation process has met bargaining objectives, it announces to the membership that a tentative agreement has been reached and the ratification process is undertaken as described in the local association constitution. The ratification procedures should evidence the following principles:

- Fairness
- Accessibility
- Accountability
- Accuracy

### **Implementation of Agreement Phase**

The implementation of the local collective agreement is an important process. During this phase the strength of the relationship between the parties to the agreement is measured. It is important that the members of the local association have a full and complete understanding of the provisions of the local agreement and how it is intended to be implemented. It is also important that the LINC be informed if teachers are experiencing the provisions of the agreement in a manner that is not consistent with the understandings of the LINC.

The implementation of the local collective agreement is the responsibility of the LINC. Questions and/or concerns arising from the provisions of the agreement should be addressed by the LINC chairperson. Discussions about the provisions of the agreement or about the application of the agreement between the board and individual teachers or groups of teachers should be facilitated through the chairs of the respective parties to the agreement.

### **Evaluation and Learning Phase**

Following the conclusion of each local collective agreement, the LINC should develop a procedure for analyzing, assessing and evaluating the bargaining process with a view to identifying ways to improve the process. This procedure may include collecting feedback about the experience from members regarding their individual and collective engagement in and contributions to the bargaining process. The insights and learning gained contribute

to the refinement of the process for the next round of local collective bargaining.

# Appendix 1

## The Education Act, 1995:

### Process for settlement of disputes to be specified

239 (1) Not later than 101 days prior to the day on which a collective bargaining agreement negotiated pursuant to this Act expires, the federation, with respect to a provincial agreement, or each bargaining committee appointed pursuant to subsection 235(2) or 236(2), with respect to a local agreement shall, provide a written notice specifying that the process for the resolution of a dispute is to be:

- (a) the process set out in sections 243 to 250 if all of the parties to the provincial agreement or the local agreement, as the case may be, consent; or
  - (b) the process set out in sections 251 to 260.
- (2) The notice mentioned in subsection (1) shall be delivered:
- (a) in the case of a provincial agreement, to the association and to the minister;
  - (b) in the case of a local agreement negotiated by the parties mentioned in section 235, to the board of education employing the teachers represented by the bargaining committee;
  - (c) in the case of a local agreement negotiated by the parties mentioned in section 236, to the conseil scolaire.
- (3) A copy of the notice mentioned in subsection (1) shall be filed with the chief executive officer of the Educational Relations Board.
- (4) The process for resolution of a dispute specified in a notice pursuant to subsection (1) shall be the process applicable for the resolution of all disputes from the day on which the notice is given until a subsequent notice is given pursuant to subsection (1).

1995, c.E-0.2, s.239; 1998, c.21, s.98; 2017, c.11, s.47.

### Sample Letter: Process for settlement of disputes

(Registered Mail)

\_\_\_\_\_

(Date)

Chairperson, \_\_\_\_\_ School Division

\_\_\_\_\_

\_\_\_\_\_

Dear \_\_\_\_\_ :

Pursuant to Section 239(1) of *The Education Act, 1995*, I wish to advise that the bargaining committee for teachers hereafter known as the Local Implementation and Negotiation Committee (LINC) has selected the process for resolution of dispute set out in Section \_\_\_ of *The Education Act, 1995*.

Yours sincerely,

\_\_\_\_\_, Chairperson  
Local Implementation and Negotiation  
Committee

\_\_\_\_\_ Teachers' Association

#### Send copies to:

- ① Daphne Taras, Q.C., Chairperson  
Educational Relations Board  
PotashCorp Centre  
25 Campus Drive  
Saskatoon SK S7N 5A7
- ② Administration/Governance  
Saskatchewan Teachers' Federation  
2317 Arlington Avenue  
Saskatoon SK S7J 2H8

The Federation **recommends** that local implementation and negotiation committees consult with the Federation prior to selecting a process for the settlement of disputes as described in sections 243-260 of *The Education Act, 1995*.

# Appendix 2

## The Education Act, 1995: Time of commencement of collective bargaining

238 Negotiations to conclude any collective bargaining agreements shall commence not later than 100 days prior to the day on which a collective bargaining agreement negotiated pursuant to this Act expires.

1995, c.E-0.2, s.238.

### Sample Letter: Time of commencement of collective bargaining

(Registered Mail)

\_\_\_\_\_

(Date)

Chairperson, \_\_\_\_\_ School Division

\_\_\_\_\_

\_\_\_\_\_

Dear \_\_\_\_\_ :

Pursuant to Section 238 of *The Education Act, 1995*, negotiations to conclude our next local collective bargaining agreement must commence not later than 100 days prior to the day on which our current agreement expires. This requires that the bargaining committee for teachers hereafter referred to as the Local Implementation and Negotiation Committee (LINC) and the bargaining committee for the board meet before \_\_\_\_\_ to begin this set of negotiations.

The members of the Local Implementation and Negotiation Committee as determined through the constitution of the \_\_\_\_\_ Teachers' Association are:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The LINC will be prepared to meet on the following dates:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I look forward to your response regarding the availability of the bargaining committee for the board on these or any other dates that you might propose providing they are congruent with our obligations under *The Education Act, 1995*.

Yours sincerely,

\_\_\_\_\_, Chairperson  
Local Implementation and Negotiation Committee

\_\_\_\_\_ Teachers' Association

#### Send copies to:

Administrative Support Unit  
Saskatchewan Teachers' Federation  
2317 Arlington Avenue  
Saskatoon SK S7J 2H8

# Appendix 3

## *The Education Act, 1995: Sections 203, 209, 234 to 269*

### **Employment status of teachers on establishment of school division**

**203(1)** On the establishment of a school division pursuant to section 41, all existing contractual obligations with respect to teachers employed under contract on the date of that establishment for, and in schools included in, the newly established school division are continued and assumed by the board of education of that school division.

(2) For the purposes of employment, salary and salary increments and other benefits and entitlements, each teacher employed pursuant to subsection (1) is deemed to have been in the employ of that board of education from the day on which the teacher entered into a contract of employment in a school district established pursuant to *The School Act*, in a school unit established pursuant to *The Larger School Units Act* or in a school division that is included in the school division being established.

(3) Prior to the conclusion of collective bargaining pursuant to sections 235 to 269 for a local agreement for a new school division, the local agreement that applied to a teacher mentioned in subsection (1) on the day before the establishment of the school division continues to apply to that teacher.

1995, c.E-0.2, s.203; 1997, c.35, s.19.

### **General terms of employment**

**209(1)** The applicable provisions of this Act and of the regulations are deemed to be terms of employment under a contract of employment between a teacher and a board of education or the conseil scolaire.

(2) Any ancillary conditions of employment are to be given effect where they are incorporated in a collective bargaining agreement.

1995, c.E-0.2, s.209; 1998, c.21, s.127.

### **Bargaining committees to negotiate provincial agreements**

**234(1)** The federation shall appoint a bargaining committee of four members to have exclusive authority, and be the sole party, to bargain collectively and to execute collective bargaining agreements on behalf of teachers with respect to the matters set out in subsection 237(1).

(2) The association shall appoint four persons and the Lieutenant Governor in Council shall appoint five persons to a bargaining committee to have exclusive authority, and be the sole party, to bargain collectively and to execute collective bargaining agreements on behalf of boards of education and the conseil scolaire and the Government of Saskatchewan with respect to the matters set out in subsection 237(1).

(3) Subject to subsection (4), where there is an insufficient number of appointments made pursuant to subsection (1) or (2), the Lieutenant Governor in Council may appoint the

number of persons that is required to constitute each committee mentioned in subsection (1) or (2).

- (4) The Lieutenant Governor in Council shall:
  - (a) in the case of the committee mentioned in subsection (1), only appoint persons who are teachers; and
  - (b) in the case of the committee mentioned in subsection (2), only appoint persons who are members of a board of education or the conseil scolaire.
- (5) A majority of the members of a bargaining committee constitutes a quorum.
- (6) A bargaining committee appointed pursuant to this section may bargain on its own behalf or through one or more representatives who may or may not be members of that committee.

1995, c.E-0.2, s.234; 1998, c.21, s.95.

### **Bargaining committees to negotiate local agreements with boards of education**

**235(1)** Each board of education shall bargain collectively with the teachers employed by it with respect to the matters set out in subsection 237(2).

(2) The teachers employed by a board of education shall appoint a bargaining committee to have the exclusive authority, and be the sole party, to bargain collectively on behalf of all the teachers employed by that board of education with respect to the matters set out in subsection 237(2).

1995, c.E-0.2, s.235.

### **Bargaining committee to negotiate local agreements with conseils scolaires**

**236(1)** The conseil scolaire shall bargain collectively with the teachers employed by it with respect to the matters set out in subsection 237(3).

(2) The teachers employed by the conseil scolaire shall appoint a bargaining committee to have the exclusive authority, and be the sole party, to bargain collectively on behalf of all the teachers employed by the conseil scolaire with respect to the matters set out in subsection 237(3).

1995, c.E-0.2, s.236; 1998, ch.21, s.96.

### **Scope of bargaining authority of bargaining committees**

**237(1)** The bargaining committees mentioned in section 234:

- (a) shall bargain collectively with respect to:
  - (i) salaries of teachers;
  - (ii) allowances for principals and vice-principals;
  - (iii) superannuation of teachers;
  - (iv) group life insurance for teachers;

- (v) criteria respecting the designation of persons as not being teachers within the meaning of any provision of this Act pertaining to collective bargaining;
  - (vi) the duration of a provincial agreement;
  - (vii) sick leave for teachers;
  - (viii) any other matters that may be ancillary or incidental to any of the matters mentioned in subclauses (i) to (vii) or that may be necessary to their implementation;
- (b) may bargain collectively with respect to matters other than those mentioned in clause (2)(a).

(2) Subject to subsection (4), each board of education and each bargaining committee mentioned in subsection 235(2):

- (a) shall bargain collectively with respect to:
- (i) sabbatical leave for teachers;
  - (ii) educational leave for teachers;
  - (iii) salaries for substitute teachers;
  - (iv) the duration of a local agreement;
  - (v) pay periods for teachers;
  - (vi) special allowances for teachers;
- (b) may bargain collectively with respect to matters other than those mentioned in clause (1)(a).

(3) Subject to subsection (5), the conseil scolaire and the bargaining committee mentioned in subsection 236(2):

- (a) shall bargain collectively with respect to:
- (i) sabbatical leave for teachers;
  - (ii) educational leave for teachers;
  - (iii) salaries for substitute teachers;
  - (iv) the duration of a local agreement;
  - (v) pay periods for teachers;
  - (vi) special allowances for teachers;
- (b) may bargain collectively with respect to matters other than those mentioned in clause (1)(a).

(4) Where a board of education and a bargaining committee have agreed to bargain collectively with respect to a matter covered by clause (2)(b) and the matter subsequently becomes part of a provincial agreement, the local agreement with respect to that matter applies to the teachers and the board of education notwithstanding the terms of the provincial agreement with respect to that matter.

(5) Where the conseil scolaire and the bargaining committee have agreed to bargain collectively with respect to a matter covered by clause (3)(b) and the matter subsequently becomes part of a provincial agreement, the local agreement with respect to that matter applies to the teachers and the conseil scolaire notwithstanding the terms of the provincial agreement with respect to that matter.

(6) No collective bargaining agreement is to contain terms regulating the selection of teachers, the courses of study, the program of studies or the professional methods and techniques employed by teachers.

1995, c.E-0.2, s.237; 1998, c.21, s.97.

## Time of commencement of collective bargaining

**238** Negotiations to conclude any collective bargaining agreements shall commence not later than 100 days prior to the day on which a collective bargaining agreement negotiated pursuant to this Act expires.

1995, c.E-0.2, s.238.

## Process for settlement of disputes to be specified

**239(1)** Not later than 101 days prior to the day on which a collective bargaining agreement negotiated pursuant to this Act expires, the federation, with respect to a provincial agreement, or each bargaining committee appointed pursuant to subsection 235(2) or 236(2), with respect to a local agreement shall, provide a written notice specifying that the process for the resolution of a dispute is to be:

- (a) the process set out in sections 243 to 250 if all of the parties to the provincial agreement or the local agreement, as the case may be, consent; or
- (b) the process set out in sections 251 to 260.

(2) The notice mentioned in subsection (1) shall be delivered:

- (a) in the case of a provincial agreement, to the association and to the minister;
- (b) in the case of a local agreement negotiated by the parties mentioned in section 235, to the board of education employing the teachers represented by the bargaining committee;
- (c) in the case of a local agreement negotiated by the parties mentioned in section 236, to the conseil scolaire.

(3) A copy of the notice mentioned in subsection (1) shall be filed with the chief executive officer of the Educational Relations Board.

(4) The process for resolution of a dispute specified in a notice pursuant to subsection (1) shall be the process applicable for the resolution of all disputes from the day on which the notice is given until a subsequent notice is given pursuant to subsection (1).

0, c.E-0.2, s.239; 1998, c.21, s.98; 2017, c.11, s.47.

## Appointment of mediator

**240** Where a collective bargaining agreement is to be concluded, renewed or revised and the chairperson of the Educational Relations Board at any time considers it desirable that a mediator be appointed to assist in the resolution of a dispute, the chairperson may appoint a mediator.

1995, c.E-0.2, s.240.

## Educational Relations Board continued

**241(1)** The Educational Relations Board is continued and consists of five members appointed by the Lieutenant Governor in Council.

(2) Of the members appointed pursuant to subsection (1):

- (a) two members shall be teachers nominated by the federation;
- (b) two members, who must each be a member of a board of education or the conseil scolaire, shall be nominated by the association;

- (c) one member, who is to be the chairperson, shall be nominated by a majority of the members mentioned in clauses (a) and (b).
- (3) Where no joint nomination is received pursuant to clause (2)(c), the Chief Justice of the Court of Queen's Bench shall nominate one person to be the chairperson.
- (4) Where the federation or the association fails to nominate persons in accordance with subsection (2), the Lieutenant Governor in Council shall appoint as members of the Educational Relations Board that number of persons that the federation or association has failed to nominate, and those persons are deemed to have been appointed pursuant to subsection (2).
- (5) The members of the Educational Relations Board appointed pursuant to subsection (1) hold office for a term of four years and are eligible for reappointment.
- (6) Where a vacancy occurs in the membership of the Educational Relations Board, the Lieutenant Governor in Council may appoint another person to fill the vacancy for the remainder of the term of the person being replaced.
- (7) The members of the Educational Relations Board shall appoint one of their number to be vice-chairperson and that person is to act in the chairperson's absence.
- (8) The Educational Relations Board may meet at any times and places that it considers necessary or desirable for the proper conduct of its business, but no business is to be transacted at any meeting unless at least three members of the board are present, one of whom must be the chairperson or the vice-chairperson.
- (9) All orders, decisions and rules made by the Educational Relations Board must be signed by the chairperson, or, in his or her absence, by the vice-chairperson.
- (10) Orders signed by the vice-chairperson pursuant to subsection (a) have the same effect as if they had been signed by the chairperson.
- (11) A decision of a majority of those present at a meeting of the Educational Relations Board is a decision of the Educational Relations Board.
- (12) The chairperson of the Educational Relations Board is entitled to receive remuneration for his or her services, allowances for necessary travel and other expenses in the amount or at a rate that the Lieutenant Governor in Council may determine.
- (13) The chairperson of the Educational Relations Board shall submit to the minister a report on that board's activities for the preceding year, at the times and in form that the minister may require.

1995, c.E-0.2, s.241; 1998, c.21, s.99; 2005, c.11, s.20; 2008, c.11, s.11.

## **Staff of Educational Relations Board**

- 242(1)** With the approval of the Lieutenant Governor in Council, the Educational Relations Board shall, appoint:
- (a) a chief executive officer, to act as secretary to the board; and
  - (b) any other officers and employees that it considers necessary for the performance of its duties.
- (2) Subject to the approval of the Lieutenant Governor in Council, the Educational Relations Board may fix the remuneration of mediators, conciliators and arbitrators.

1995, c.E-0.2, s.242; 2009, c.13, s.28.

## Mediation services

**243(1)** Where a dispute arises between the parties mentioned in section 234, between the parties mentioned in section 235, or between the parties mentioned in section 236 and neither party to that dispute has given notice pursuant to section 244 or 251, as the case may be, either party to the dispute may, by written notice, inform the chairperson of the Educational Relations Board that it desires mediation services in reaching an agreement respecting the dispute.

(2) Within 21 days of receiving written notice pursuant to subsection (1), the Educational Relations Board shall appoint a mediator or a team of mediators.

(3) The mediator or team of mediators shall immediately confer with the parties and endeavor to assist them in reaching an agreement respecting the dispute.

(4) Within 14 days of appointment or within any longer period of time that the chairperson of the Educational Relations Board may determine, the mediator or mediation team shall report in writing to that board the results of the mediation services that have been provided.

1995, c.E-0.2, s.243.

## Arbitration of dispute

**244(1)** Notwithstanding section 243, where a dispute mentioned in subsection 243(1) arises, either party to the dispute may, by notice in writing to the chairperson of the Educational Relations Board, request arbitration of the dispute.

(2) At the same time as it submits a request for arbitration, the party requesting arbitration shall forward a copy of the notice requesting arbitration to the other party to the dispute.

(3) Where arbitration of the dispute is requested pursuant to subsection (1), the party requesting the arbitration shall specify in the notice:

- (a) the matters with respect to which it requests arbitration and its proposals concerning the award to be made; and
- (b) the name of the person whom it appoints as a member of the arbitration board.

1995, c.E-0.2, s.244.

## Notice of arbitration to other party

**245(1)** Where a notice pursuant to section 244 has been received by the chairperson of the Educational Relations Board, the chairperson shall immediately send a copy to the other party to the dispute with respect to which arbitration is requested.

(2) Within 10 clear days after receipt of the copy of the notice mentioned in subsection (1), the party that received that notice shall notify the chairperson of the Educational Relations Board and the other party to the dispute in writing of:

- (a) the name of the person whom it appoints as a member of the arbitration board;
- (b) its proposals regarding the award to be made with respect to matters concerning which the other party has requested arbitration pursuant to section 244; and
- (c) its proposals with respect to any matter, in addition to the matters specified in the notice pursuant to section 244:
  - (i) that has been a subject of negotiation between the parties during the period before the arbitration was requested;

- (ii) on which the parties were unable to agree; and
- (iii) with respect to which the party providing notice pursuant to this subsection requests arbitration.

1995, c.E-0.2, s.245; 2009, c.13, s.29.

## Arbitration board constituted

**246(1)** The two members of an arbitration board appointed pursuant to sections 244 and 245 shall appoint, within 10 clear days after the appointment of the second of them, a third member who is to be the chairperson of the arbitration board.

(2) Where the party that received the copy of the notice mentioned in section 245 fails to specify the name of the person it appoints to the arbitration board within the time prescribed pursuant to subsection 245(2), the chairperson of the Education Regulations Board shall appoint a member on behalf of that party.

(3) Where the two members of the arbitration board appointed pursuant to sections 244 and 245 cannot agree on the appointment of a third member within the 10-day period mentioned in subsection (1), the chairperson of the Education Regulations Board shall appoint a third member to be the chairperson of the arbitration board.

(4) The chairperson of the Educational Relations Board shall:

- (a) refer the matter in dispute to the arbitration board in writing; and
- (b) send a copy of the notices mentioned in sections 244 and 245 to the chairperson of the arbitration board.

(5) Where a matter is referred to an arbitration board pursuant to subsection (4), the arbitration board is conclusively presumed to have been appointed, in accordance with this Act, and its proceedings, orders and decisions are not reviewable by a court of law by *certiorari*, *mandamus*, prohibition, injunction or any other proceeding.

(6) Where a vacancy occurs in the membership of an arbitration board before it has made its award, the vacancy may be filled in the manner prescribed in section 244 or 245 or in this section.

(7) A member selected pursuant to subsection (6) is deemed to have been a member of the arbitration board from the date the arbitration board was established.

1995, c.E-0.2, s.246.

## Terms of reference of arbitration board

**247(1)** The matters in dispute between the parties to an arbitration that must be specified in the notices pursuant to sections 244 and 245 constitute the terms of reference of the arbitration board.

(2) After considering the matters in dispute together with any other matter that it considers necessarily incidental to the resolution of the matters in dispute, the arbitration board shall make an award with respect to the dispute.

(3) An award must not include provision for matters that the parties have not agreed to negotiate.

(4) A dispute between parties consisting of a disagreement with respect to requesting arbitration proceedings pursuant to this Act is not to be the subject of arbitration proceedings pursuant to this Act.

(5) Where, at any time before an award is made, the parties reach agreement on any matter in dispute, the arbitration board shall not make an award with respect to the matter that has been resolved.

1995, c.E-0.2, s.247.

## **Procedure of arbitration board**

**248(1)** Subject to the other provisions of this Act and the regulations, an arbitration board shall determine its own procedure but shall give full opportunity to the parties to the arbitration to present evidence and to make submissions to it.

(2) An arbitration board may consider any evidence that is appropriate, whether or not that evidence would be admissible in a court of law.

(3) A decision of the majority of the members of an arbitration board or, failing a majority decision, the decision of the chairperson of the arbitration board, is an award of that board.

(4) An arbitration board shall render its decision pursuant to subsection (3) within 28 days of the date of its establishment, unless the parties agree to an extension of time or the time is extended by the chairperson of the Educational Relations Board.

(5) The award of an arbitration board is final and binding on the parties to the arbitration.

(6) A certified copy of the decision of the arbitration board must be filed by the chairperson of the arbitration board within 14 days in the office of a local registrar of the Court of Queen's Bench and, once filed, is enforceable as a judgement or order of that court.

1995, c.E-0.2, s.248.

## **Referral of certain matters back to arbitration board**

**249(1)** Where it appears to either party to an arbitration that an arbitration board has failed to deal in an award with any matter referred to it, the party may, within seven days from the day on which the arbitration board made the award, refer the matter back to the arbitration board for consideration.

(2) Where a matter has been referred back to an arbitration board pursuant to subsection (1), the arbitration board shall consider the matter.

1995, c.E-0.2, s.249.

## **Power of arbitration board to amend award**

**250** On application by both parties who were parties to an arbitration before it, an arbitration board may amend, alter or vary any provision of an award made by the arbitration board where it appears to the arbitration board that the amendment, alteration or variation is warranted.

1995, c.E-0.2, s.250.

## Conciliation board with respect to dispute

**251** Notwithstanding section 243, either party to the dispute, by written notice to the chairperson of the Educational Relations Board, may request the establishment of a conciliation board where a dispute arises between:

- (a) the parties mentioned in section 234;
- (b) the parties mentioned in section 235; or
- (c) the parties mentioned in section 236.

1995, c.E-0.2, s.251.

## Establishment of conciliation board

**252(1)** Subject to subsection (2), on receipt of a notice pursuant to section 251, the chairperson of the Educational Relations Board shall:

- (a) establish a conciliation board with respect to the dispute between the parties; and
- (b) notify the parties of the establishment of the conciliation board.

(2) Where the chairperson of the Educational Relations Board receives a notice pursuant to section 251 and, after consultation with each of the parties to the dispute, it appears to him or her that the establishment of a conciliation board is unlikely to assist the parties in reaching agreement, the chairperson shall immediately notify the parties in writing of his or her intention not to establish a conciliation board as requested.

1995, c.E-0.2, s.252.

## Establishment of conciliation board by chairperson of the Educational Relations Board

**253(1)** Where a dispute mentioned in section 251 arises, the chairperson of the Educational Relations Board may establish a conciliation board if it appears to him or her that the establishment of a conciliation board may assist the parties in reaching an agreement and that, without the establishment of a conciliation board, the parties are unlikely to reach an agreement.

(2) Prior to establishing the conciliation board pursuant to subsection (1), the chairperson of the Educational Relations Board shall notify the parties to the dispute in writing of the intention to do so.

1995, c.E-0.2, s.253.

## Conciliation board constituted

**254(1)** A conciliation board is to consist of three members.

(2) Within seven days of the receipt of a notice of the establishment of a conciliation board from the chairperson of the Educational Relations Board, each of the parties to the conciliation shall appoint one person to be a member of the conciliation board and shall immediately notify the chairperson of the Educational Relations Board and the other party of the appointment.

(3) If either party to the conciliation fails to appoint a person as a member of the conciliation board within the time mentioned in subsection (2), the chairperson of the Educational Relations Board shall appoint a person as a member of the conciliation board.

(4) Within eight days after the appointment of the second of them, the two members appointed pursuant to subsection (2) or (3) shall nominate a person who shall be appointed by the chairperson of the Educational Relations Board to be the third member and chairperson of the conciliation board.

(5) If the two members appointed pursuant to subsections (2) and (3) cannot agree on a nomination pursuant to subsection (4), the chairperson of the Educational Relations Board shall:

- (a) immediately appoint a person to be the chairperson of the conciliation board; and
- (b) notify the parties, in writing, that the conciliation board is established.

1995, c.E-0.2, s.254.

## **Vacancy on conciliation board**

**255** Where a vacancy occurs in the membership of a conciliation board before it has reported its findings and recommendations, the vacancy may be filled in the manner set out in section 254.

1995, c.E-0.2, s.255.

## **Statement of dispute to conciliation board**

**256** Immediately on the establishment of a conciliation board, each party to the dispute with respect to which the conciliation board is established shall:

- (a) deliver a statement in writing of the matters in dispute to the conciliation board; and
- (b) deliver a copy of the statement to the chairperson of the Educational Relations Board.

1995, c.E-0.2, s.256.

## **Jurisdiction of conciliation board**

**257(1)** As soon as possible after receiving the statements mentioned in section 256, a conciliation board shall endeavour to bring about agreement between the parties with respect to the matters set out in those statements.

(2) A conciliation board may determine its own procedures but shall give full opportunity to both parties to present evidence and to make representations.

(3) After consultation with the other members of the board, the chairperson of a conciliation board may fix the times and places of its sittings and shall notify the parties to the conciliation of those times and places.

(4) The chairperson of a conciliation board and one other member shall constitute a quorum if the absent member has been given reasonable notice of the meeting.

(5) A conciliation board may receive, accept, admit and call any evidence that is appropriate, whether or not that evidence would be admissible in a court of law.

(6) A conciliation board shall render its decision within 14 days of its establishment, unless:

- (a) the parties to the conciliation agree to extend the time; or
- (b) the chairperson of the Educational Relations Board extends the time.

(7) A report of a majority of the members of a conciliation board is the report of the board.

(8) The report of a conciliation board shall be in writing and shall be submitted to the chairperson of the Educational Relations Board within 14 days of the date of the decision, unless:

- (a) the parties to the conciliation agree to extend the time; or
- (b) the chairperson of the Educational Relations Board extends the time.

(9) Where any two members of a conciliation board are unable to agree on an award, the report of the chairperson of the conciliation board shall be the award of the board.

1995, c.E-0.2, s.257.

## **Clarification of report of conciliation board**

**258** Where a conciliation board submits a report pursuant to subsection 257(8), the chairperson of the Educational Relations Board may, in his or her discretion, direct the conciliation board to reconsider and clarify or simplify the report or any part of it.

1995, c.E-0.2, s.258.

## **Conciliation board's report binding by agreement**

**259** Where the parties to a dispute with respect to which a conciliation board is established agree in writing to be bound by the report before the conciliation board makes its report, the report is binding on both parties.

1995, c.E-0.2, s.259.

## **Report to parties and arbitration**

**260(1)** On receipt of the report of a conciliation board, the chairperson of the Educational Relations Board shall send a copy of the report to the parties to the dispute and may, in his or her discretion, publish the report in any manner that he or she considers advisable.

(2) Where a collective bargaining agreement is not concluded by the parties within 20 days after the report of the conciliation board is forwarded to the chairperson of the Educational Relations Board, the parties may jointly request in writing that the matter or matters in dispute be referred for arbitration.

(3) On receipt of a request pursuant to subsection (2), the chairperson of the Educational Relations Board shall refer the matter or matters in dispute to an arbitration board.

(4) A request for arbitration made pursuant to subsection (2) shall specify the matters in respect of which the parties request arbitration.

(5) Within five clear days after the date of the request for arbitration, each party to a request for arbitration pursuant to subsection (2) shall specify the name of the person whom it appoints to the arbitration board.

(6) Sections 246, 248, 249 and 250 apply to an arbitration board established pursuant to a request for arbitration pursuant to subsection (2).

1995, c.E-0.2, s.260.

## Arbitration of grievance

**261(1)** Subject to section 263 and except where otherwise provided in a collective bargaining agreement, either party to the agreement may, at any time by notice in writing to the other party, require that any grievance be resolved by arbitration.

(1.1) For greater certainty and for the purposes of this section and section 263, “party”, “party to the grievance” or “party to the agreement” means with respect to a provincial agreement:

- (a) the bargaining committee appointed by the federation pursuant to subsection 234(1); or
- (b) the bargaining committee that consists of:
  - (i) the persons appointed by the association pursuant to subsection 234(2); and
  - (ii) the persons appointed by the Lieutenant Governor in Council pursuant to subsection 234(2).

(2) The notice mentioned in subsection (1) shall specify the grievance and the name of the person whom the party giving the notice appoints to be a member of the arbitration board.

(3) Within 10 days after receipt of that notice, the party to whom a notice is sent pursuant to subsection (1) shall appoint a person to be a member of the arbitration board and notify the other party in writing of the appointment.

(4) Within 10 days after the appointment of the second of them, the two members appointed pursuant to subsections (2) and (3) shall appoint a person to be the third member and chairperson of the arbitration board.

(5) Where a party does not appoint a person to be a member of the arbitration board, or where the two persons appointed as members cannot agree on a person to be the third member of the arbitration board, within the time prescribed in subsection (3) or (4) for those appointments, the chairperson of the Educational Relations Board shall, on being notified by either party of that fact, appoint:

- (a) a person to be a member of the arbitration board; or
- (b) a person to be the third member and chairperson of the arbitration board.

1995, c.E-0.2, s.261; 1998, c.21, s.100.

## Duty of arbitration board respecting grievance

**262(1)** An arbitration board appointed pursuant to section 261 shall proceed to hear the grievance with respect to which it was established as promptly as is reasonably practicable.

(2) Sections 248 to 250 apply to the hearing of an arbitration board appointed pursuant to section 261.

1995, c.E-0.2, s.262.

## Conditions precedent for arbitration of grievance

**263** Except where otherwise provided in a collective bargaining agreement, if a grievance involves the interpretation or application or the alleged violation of a collective bargaining agreement, that grievance shall not be referred for arbitration until:

- (a) a complaint in writing is filed with the other party by a party to the grievance; and

(b) negotiations between the parties mentioned in clause (a) have failed to result in a settlement of the grievance within 15 days.

1995, c.E-0.2, s.263; 1998, c.21, s.101.

## **Non-application of *The Arbitration Act, 1992***

**264** *The Arbitration Act, 1992* does not apply to any arbitration or conciliation pursuant to sections 244 to 263.

1995, c.E-0.2, s.264.

## **Contracts deemed to include terms and conditions of collective agreements**

**265** All contracts of employment between teachers and boards of education and between teachers and the conseil scolaire are deemed to include all applicable terms and conditions contained in a collective bargaining agreement made between the parties pursuant to this Act and, notwithstanding the termination of a collective bargaining agreement, those terms and conditions shall remain in force for the duration of any contract of employment and until a new or revised collective bargaining agreement is concluded between the parties.

1998, c.21, s.102.

## **Application to the Educational Relations Board respecting certain designations**

**266(1)** In sections 234 to 265, “**teacher**” does not include:

- (a) any director; or
- (b) any person who has been designated by the Educational Relations Board pursuant to this section as not being a teacher.

(2) A board of education or the conseil scolaire may apply in writing to the Educational Relations Board to have a person designated as not being a teacher.

(3) A person who has been designated as not being a teacher pursuant to subsection (2) may apply in writing to the Educational Relations Board to have himself or herself designated as being a teacher.

(4) An applicant described in subsection (2) or (3) shall provide a copy of the application to the Saskatchewan League of Educational Administrators, Directors and Superintendents.

(5) An application pursuant to subsection (2) or (3) must include:

- (a) the name of the person with respect to whom the application is made;
- (b) a full description of the position occupied by the person;
- (c) the duties and responsibilities of the position;
- (d) the grounds on which the application is made; and
- (e) any other information that may be required by the Educational Relations Board.

(6) The Educational Relations Board shall provide a reasonable opportunity to the applicant and the other party affected by the application to appear before it to make representations with respect to the application.

- (7) The Educational Relations Board shall:
- (a) consider an application pursuant to subsection (2) or (3) as promptly as circumstances permit;
  - (b) render a decision on the application in accordance with the criteria included for that purpose in the provincial agreement; and
  - (c) provide notice of its decision, in writing, to:
    - (i) the board of education or the conseil scolaire, as the case may be;
    - (ii) the person affected by the decision;
    - (iii) the Saskatchewan League of Educational Administrators, Directors and Superintendents; and
    - (iv) the minister.
- (8) A decision of the Educational Relations Board on an application pursuant to subsection (2) or (3) is final and binding on the board of education or the conseil scolaire, and on the person affected by the application.

1995, c.E-0.2, s.266; 1998, c.21, s.127; 2000, c.10, s.12; 2008, C.11, S.12.

## **Persons associated with the Educational Relations Board r are not compellable to give evidence**

**267** The following persons are not compellable as witnesses to give evidence in any civil action, suit or other proceeding with respect to any knowledge or information acquired in the exercise of any powers conferred by this Act or acquired in the performance or purported performance of any duties imposed by this Act:

- (a) any member of the Educational Relations Board;
- (b) any officer or employee of the Educational Relations Board or person appointed by the Educational Relations Board;
- (c) any mediator, conciliator or arbitrator.

1995, c.E-0.2, s.267.

## **Sufficiency of notice**

**268** Service of a notice for any of the purposes of sections 234 to 265 is sufficient if sent by registered mail to the last known address of the residence or business office of the person to be served.

1995, c.E 0.2, s.268.

## **Costs of arbitration and conciliation**

**269(1)** Each party to an arbitration or conciliation process pursuant to this Act shall bear the fees and expenses:

- (a) of its appointees to the arbitration board or conciliation board, as the case may be; and
- (b) of its witnesses, if any.

(2) The fees and expenses of the chairperson of a board are to be borne equally by the parties.

1995, c.E-0.2, s.269.

# ***Additional Resources***



*STF Governance Handbook*

[www.stf.sk.ca](http://www.stf.sk.ca)

*Good Practices and Dispute Resolution* (May 2013). The Report of the Joint Committee

[www.stf.sk.ca](http://www.stf.sk.ca)

*Good Practices and Dispute Resolution* (2002). The Report of the Joint Committee of the Parties to the Provincial Collective Bargaining Agreement

[www.stf.sk.ca](http://www.stf.sk.ca)

*The Education Act, 1995*

[www.qp.gov.sk.ca/documents/English/statutes/statutes/E0-2.pdf](http://www.qp.gov.sk.ca/documents/English/statutes/statutes/E0-2.pdf)

*The Saskatchewan Human Rights Code*

[www.qp.gov.sk.ca/documents/English/statutes/statutes/S24-1.pdf](http://www.qp.gov.sk.ca/documents/English/statutes/statutes/S24-1.pdf)

*The Teachers' Federation Act, 2006*

[www.qp.gov.sk.ca/documents/English/statutes/statutes/T7-1.pdf](http://www.qp.gov.sk.ca/documents/English/statutes/statutes/T7-1.pdf)

*The Saskatchewan Employment Act*

[www.qp.gov.sk.ca/documents/English/statutes/statutes/S15-1.pdf](http://www.qp.gov.sk.ca/documents/English/statutes/statutes/S15-1.pdf)





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