# TEACHER REDUNDANCY

## GUIDING PRINCIPLES

STF Policy 3.13 (Teacher Redundancy) expresses teachers' beliefs that in determining which teacher or teachers may be redundant, the primary mechanism is seniority within the division or those teachers who possess or are in a position to acquire the academic and professional qualifications needed for the program. **Note: STF policy is not binding on boards of education.**

## DEFINITIONS

### Redundancy

Redundancy occurs when a board of education has more teachers under contract within the school division than it determines are required for the teaching requirements or educational program of the school division.

### Notice of Termination

A notice of termination is the result of a motion of the board of education to terminate a teacher's contract in accordance with Section 210 of *The Education Act, 1995*.

### Show Cause Hearing

In accordance with Section 213 of *The Education Act, 1995*, a teacher who receives a notice of termination may apply for an opportunity to meet with the board to show cause why the contract should not be terminated. The board must then either reaffirm or rescind their motion of termination.

### Board of Reference

A board of reference is a three-person panel that investigates the reasons for a termination of contract and makes a binding ruling as to the validity of the termination.

### Redundancy Pay

Provision for a severance payment in case of a termination for redundancy is contained in Article 2.8 of the Provincial Collective Bargaining Agreement at the rate of 10 days' salary per year of continuous employment with the board for the first five years plus five days' salary for each of the years of continuous service over five. This payment may be taken in cash or, for years of service before 1996, a portion of the payment may be transferred to an RRSP.

## MEMBER SUPPORT SERVICES

Teachers should contact the Saskatchewan Teachers' Federation to seek advice before amending or terminating a contract of employment or immediately upon receipt of a notice of termination of a contract of employment. Teachers should also inform themselves of any provisions in their local agreement.

The Federation's senior administrative staff can assist with advice for and representation of teachers who have received or anticipate receiving notices of termination for redundancy throughout the process of show cause hearings and boards of reference.

## GOOD PRACTICES AND DISPUTE RESOLUTION

The Good Practices and Dispute Resolution agreement among the Federation, the Saskatchewan School Boards Association and the Ministry of Education provides a framework for processes that respect the roles and relationships of the various groups who are affected by all of the decisions that will be made during a situation of redundancy. Copies of the agreement are available from Federation senior administrative staff.

## COMMON QUESTIONS

**Q:** Our school is being closed. Does that mean that I, as a teacher in this school, will automatically be declared redundant?

**A:** No, you are employed by the school division and assigned presently to your school. The board must provide you with another position or declare you redundant and be prepared to justify the termination of your contract. STF Policy 3.13 (Teacher Redundancy) provides principles for reduction in staff and appropriate ways to accomplish that. The information in this policy can assist you in your own advocacy should you be in this situation, and further advice and assistance is available from the Federation's senior administrative staff.

**Q:** I am a principal. I have been asked by the director to recommend which teacher in the school should be declared redundant. Should I agree to do this?

**A:** No, the Federation believes that principals should not be making those decisions. As noted above, teachers are employed by the school division, which means that the principal in one school will not have the information required to determine the staffing needs of the whole division and make such a decision. Principals, in consultation with their staffs, should make recommendations to the director regarding program and staffing needs of their schools, but should not make recommendations that affect the entire division or which determine whether the termination of a particular teacher's contract will occur.

**Q:** I was employed in a legacy school division that now makes up part of a larger school division. Does my teaching experience in the legacy division count when redundancy is being considered or redundancy pay is being calculated?

**A:** Yes. Section 203 of *The Education Act, 1995* is clear that all contractual obligations, salary increments, benefits and entitlements with a school division that has now been subject to a restructuring or amalgamation go back to the day on which you started employment with the original school division.

## LEGAL ISSUES

### *The Education Act, 1995*

- Subsection 210(1)(b) provides the opportunity for a board of education to terminate a teacher's contract for reasons of redundancy.
- Section 213 provides that any notice of termination under Section 210 must state that the teacher may at any time within 10 days of receipt of the termination notice apply for an opportunity to attend a meeting of the board to show cause why the contract should not be terminated.
- Section 216 provides that a teacher may within 20 days of the receipt of the termination notice apply to the Minister of Education for an investigation of the termination by a board of reference as established under Section 218. Such a board of reference consists of a teacher nominee, a board nominee, and a mutually agreed upon chairperson or, in the event of no agreement, a chairperson appointed by the chief justice of the Court of King's Bench. The decision of the board of reference, either to uphold the termination or reinstate the teacher, is binding. Note: In the case of terminations for redundancy, all teachers have the right to a board of reference including teachers in their first or second year in that school division as per Section 216 of *The Education Act, 1995*.

### Precedents

The following principles have been established as a result of earlier redundancy cases.

- A teacher's contract is with the school division; a teacher may be assigned to any of the schools in the division.
- There is no redundancy if there are any suitable open positions within the school division for which the teacher is qualified.
- A Professional "A" Certificate allows a teacher to teach at any grade or subject level.
- A part-time teacher has a right to a part-time position within the school division even if only full-time positions are available.
- The board of education can transfer a teacher to any vacant position within the school division.
- Teachers declared redundant prior to June 30 are not automatically eligible for positions which become available after June 30.

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This summary contains general information only. In the event of a discrepancy in interpretation, the applicable legislation or collective bargaining agreement is the final authority. For further information contact the Federation or visit the STF website at www.stf.sk.ca.