



Advisory

The Council of Ontario Directors of Education (CODE) is an advisory and consultative organization composed of the CEOs of each of the 72 District School Boards in Ontario; Public, Catholic and French Language.

Effective Labour Relations

What do I need to know about implementing positive and productive labour relations?

Good labour relations are critical to improving student achievement and the working and learning conditions for staff members and students. Labour relations impact on all board employees. If the board has a climate of positive and productive labour relations, the students, staff, parents and trustees experience more positive outcomes. The quality of relationships between the corporate board and the staff influences many decisions, including program implementation. The negotiation and administration of collective agreements, the terms and conditions of employment, and performance appraisal practices reflect the organization's core beliefs about its employees. These processes all have a significant impact on staff morale and the ability of the board to implement its mission.

The basic requirements of payroll, pay equity implementation, benefits administration, etc., must be carried out efficiently and effectively to ensure that employees have their needs and expectations met, that costs are contained, and that the board is meeting its legal obligations.

What do I need to know about labour relations legislation?

Legislation covering labour relations is found in a number of different documents.

Applicable Acts:

- The *Labour Relations Act* governs the bargaining process. Infractions of the *Act* are heard by the Labour Relations Board and issues arising from the administration and application of collective agreements are subject to the grievance/arbitration process. Rulings of an arbitrator may be subject to judicial review.
- The *Employment Standards Act* (2000), *Occupational Health and Safety Act* (1990), *Human Rights Code* (1990), and *Ontarians with Disabilities Act* (2001) also apply to and impact on labour relations in boards.
- The *Education Act* governs duties of teachers and principals (Part X); teacher bargaining (Part X.1); teacher performance appraisal (Part X.2); induction, performance appraisal and reporting obligations for early childhood educators (Part X.3); and performance appraisal of principals, vice-principals, and supervisory officers (Part XI.1).

Regulations:

- Regulation 298 defines certain aspects of school operations, including details about the duties of teachers and principals, and the assignments of teachers.
- Other relevant regulations include Regulation 399/00 (Class Size), Regulation 98/02 (Teacher Learning Plans), and Regulation 99/02 (Teacher Performance Appraisal).



Labour Relations Networks

There are many resources to assist the director and other system leaders with labour relations and the bargaining process:

- Employee/Trustee Associations, bargaining and implementing provincial template agreements at the provincial discussion table
- The Ontario Education Services Corporation (OESC) internet-based provincial portal system
- Annual conferences
- The North American Association of Educational Negotiators (NAEN)
- Relevant Ministry staff



Ontario Ministry of Education Memoranda:

- Policy and Program Memoranda include: “Terms and Conditions of Employment of Principals and Vice-Principals” (PPM 152); “Applications for Letters of Permission” (PPM 147); “Applications for Temporary Letters of Approval” (PPM 153); and “Applications for Letters of Permission for Positions Requiring a Registered Early Childhood Educator” (PPM 154).

Acts by Licensing Bodies:

- The *Ontario College of Teachers Act, 1996* established the Ontario College of Teachers. The Act licenses and regulates teachers.
- The *Early Childhood Educators Act, 2007* established the College of Early Childhood Educators. This Act licenses and regulates early childhood educators. These Acts are accompanied by regulations which define professional misconduct. Both colleges have mandatory reporting requirements for certain infractions and may discipline their members, independent of any action taken by a board.

How can the director assist the corporate board to be effective in promoting positive labour relations?

It is important for the director to:

- develop clarity about appropriate roles for staff members, individual trustees, and the corporate board relative to negotiations and labour relations issues;
- keep the board well informed about employee group issues and concerns;
- ensure that the board understands the issues from the perspective of the system leaders/negotiation committee before board members are approached by union members;
- determine ahead of time if and how the board will be involved in bargaining; [The corporate board must be involved in setting parameters within which the staff bargains, and must receive regular updates on progress during negotiations. Decisions must be made about the degree of trustee involvement in caucus or directly at the bargaining table. Decisions about involvement take past practice into account and consider amendments to the *Education Act* (under Bill 177) relating to board governance and the code of conduct for board members.]
- build trust, understanding, and support for ratification of a recommended agreement, recognizing that directors are influential in creating the conditions under which board members will support the advice/recommendations of the director and the negotiations committee/team;
- assist board members in making appropriate responses to communications and appeals from union and non-union leadership by discussing how trustees may be approached prior to and during the bargaining process; and
- develop protocols for board members and the senior staff to follow.

Collective bargaining can be personally and professionally demanding for board members and the director. There may be times when the director, the corporate board and individual trustees and staff members are characterized in an unnecessary and unpleasant manner. It is important for individuals involved in the bargaining process not to take this personally and to maintain a positive and professional approach.

Supervisory officers are expected to:

- be knowledgeable about and understand the implications of the legislation, regulations, and memoranda relating to collective bargaining and labour relations;
- provide advice as appropriate and, when necessary, recommend that the board employ external counsel and support;

- determine the role of senior leaders (director, superintendents and labour relations/human resources staff) before the bargaining process begins; [Many directors do not actively participate in the bargaining process. Maintaining their distance from the bargaining process provides directors with greater potential to use their status strategically when needed to support and further negotiations.]
- understand that having the director participate directly in the bargaining process is usually not a good idea unless negotiations have reached the point where an agreement is present between both parties, and the director believes that the board will accept the report of the negotiations committee/team; and
- be available for consultation and participate in caucus discussions during the final stages of the bargaining process.

Directors must ensure that they do not limit or undermine the authority of the negotiations committee/team, and should ensure that both the board and unions use established processes. The role of director is critical to having the board support any proposed collective agreement presented for the board's approval. When necessary, the director may need to work to build coalitions in order to gain approval for negotiated agreements.

What are effective practices?

Labour Relations Leadership

Employing a strategic organizational leader to guide the labour relations portfolio is significant to the success of effective and positive labour relations. This individual is more likely to understand that labour negotiations and collective bargaining are not ends in themselves, but strategies to achieve board goals. Ensuring that this person is a participating member of the senior leadership team will increase understanding of the ways in which labour relations impact on system decisions, and will facilitate the development and sustainability of good labour relations at the system level. It is helpful if the staff member heading labour relations has worked in the school system. Previous knowledge, experience, and background will be useful in providing direction, assistance, and counsel. It is not essential to have a detailed knowledge of labour relations practices. However, if the leader responsible for human resources/ labour relations does not have this background, it is important for the director to ensure that general training in human resources practices has been provided. Fostering strong and open relationships between board labour relations leaders and the finance/business staff is critical to a successful bargaining process and effective human relations practices.

Employee Group Relationships

It is important to note that the leaders of employee groups have a primary allegiance and responsibility to their members. At the same time, positive relations between the director and employee group leaders make issues easier to resolve. The director can support good relationships by:

- developing strong and ongoing professional relationships and a climate in which issues and concerns can be discussed;
- being forthright and honest; [In some cases, employee groups may indicate that the director's stance is unreasonable. However, open and honest communication can help both parties to understand different positions.]
- meeting with the employee group leaders on a regularly-scheduled basis, as an opportunity for the director/system staff and employees to listen to each other and discuss concerns and respond to questions;
- involving union leaders in significant decisions which are going to affect their members;
- inviting union leaders to training sessions involving their members to assist them to better understand new initiatives, Ministry capacity-building activities, and expectations for student learning and instruction;

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Links to Resources

Ministry of Labour:

<http://www.labour.gov.on.ca/english/lr/pubs/index.php>

E-Laws:

<http://www.e-laws.gov.on.ca/navigation?file=home&lang=en>

NAEN:

<http://www.naen.camp8.org>

OESC Portal:

<https://opsba.oescportal.ca/CookieAuth.dll?GetLogon?curl=72f&reason=0&formdir=3>

[Each school board can add staff to the portal.]



- approaching discussions, issues and concerns prepared to solve problems, recognizing that flexibility and openness are important characteristics of the problem solving process;
- understanding grievances before becoming involved; and
- monitoring grievance activity as a way of measuring employee satisfaction, the effectiveness of agreement implementation by managers and system leaders, and the reasonableness of the union leadership.

Occasionally, directors may be approached by the union leadership to meet outside of regularly-scheduled meetings to discuss issues. It is important for directors to be knowledgeable about the issues before the meeting occurs and to ensure that the board labour relations/human resources leader attends with the director.

Communications

There are many significant facets to effective communication during the bargaining process.

- Agreed-upon “ground rules” generally prevent negotiating in public. Communication must be thoughtful and controlled to preserve confidentiality and avoid contravening the *Labour Relations Act*.
- Public communications are generally used to convey progress in the bargaining process and to release agreed-upon information. They are not used to reveal what is being bargained (with rare exceptions). Near the end of the process, factual public communications may be used to define outstanding issues.
- Directors are strongly encouraged to follow legal direction and advice during the bargaining process and when issuing any public communication.
- Determining who will speak on behalf of the board is critical. There should be only one spokesperson. The spokesperson is usually the board chair; but in some situations may be the director. If a board has a media/communications officer it is wise to assign public communication to this staff member. During challenging negotiations some boards have engaged the services of an external media/communications team to direct all board communications.

Confidentiality

It is critical to ensure confidentiality during negotiations and throughout the bargaining process. While bargaining is a confidential process, relevant information, when appropriate and necessary, may be shared “on a need to know basis” with the senior team and the board. Much of the work of the human resources department is confidential and employees have the right to expect that matters dealing with their employment and personal lives are kept confidential, including personal information and discipline matters between them and the board.

The director may be aware that some board members have previous relationships and specific allegiances to a union and/or its members. If this is the case, the director should provide only information that will not put any board member in a difficult position.

If as a Supervisory Officer, I require more information, what should I do?

- Liaise with colleagues confidentially during the bargaining process and with regard to human resources matters.
- Contact Ontario Education Services Corporation (OESC), which maintains a bargaining portal for board staff to use as a resource, both within and outside of the bargaining process.
- Maintain good provincial connections because they are essential in understanding the provincial landscape.
- Actively participate in CODE. Participation assists directors in knowing what is happening in boards throughout the province and fosters open and confidential communication with colleagues.