

PROVINCIAL COLLECTIVE BARGAINING

Guide to Negotiations

May 2019



Introduction

Negotiations is one of the four phases of the provincial collective bargaining cycle for members of the Saskatchewan Teachers' Federation that also includes an organization and preparation phase pre-negotiations, as well as evaluation and learning and implementation of agreement phases upon reaching a new agreement.

The negotiations phase involves the Teachers' Bargaining Committee – appointed by the STF Executive – engaging the Government-Trustee Bargaining Committee with strategies that require them to understand the significance of teacher issues and how they relate to the well-being of teachers and the quality of the public education system.

The overarching goal is to achieve the best possible agreement concluded with good-faith negotiations, and voted upon and ratified by the membership. This involves resolving issues to the best of the Teachers' Bargaining Committee's ability given the real-world limitations.

Decisions or conclusions reached by the Teachers' Bargaining Committee or the Executive are made with the collective interests of Federation members in mind. Teacher issues and priorities continually evolve through member engagement and drive the bargaining strategies and tactics used during negotiations.



Context

Teacher collective bargaining is a dynamic process influenced by diverse professional, political, social and economic factors. The purpose of negotiations is to reach a collective agreement that addresses as many issues and objectives as possible for the three parties to the agreement – teachers, government and school boards. The provisions or enhancements within the Provincial Collective Bargaining Agreement have been 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.

Given the high stakes involved within any collective bargaining process, relationships can become strained at various points, creating delicate situations that need to be managed carefully. The Teachers' Bargaining Committee intentionally selects strategies and tactics that will support an environment where frank, open and honest dialogue can occur as a means of securing the best possible agreement for teachers. It is important to be aware that the nature of relationships may positively or negatively affect negotiation outcomes.

Therefore, the following considerations are important to the development, sustainability and enhancement of relationships at the bargaining table:

- All issues involve values, and the manner in which issues are handled affects relationships.
- The strategies chosen for negotiating items can exert a strong positive or negative influence on the tone of these relationships.
- Negotiation of the agreement itself is only one element within the collective bargaining process.
- Whether, or how, the terms of the agreement are fulfilled is highly dependent on the character and nature of participant relationships.

The relationship between the Teachers' Bargaining Committee and the Government-Trustee Bargaining Committee is unique, long term and extends beyond the negotiations phase. The success of negotiations and the implementation of the final collective agreement are largely dependent upon the nature of the relationship between the Committees. The tone of the relationship often sets a precedent for future negotiations.

Guiding Beliefs

Contributing to the context of provincial collective bargaining are the established beliefs of teachers regarding the process. Council approved a renewed policy in April 2017 that guides the Teachers' Bargaining Committee, STF Executive, administrative support staff and members in carrying out their respective roles and responsibilities during all phases of the provincial collective bargaining cycle including negotiations.

STF Policy 3.1 (Collective Bargaining)

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.

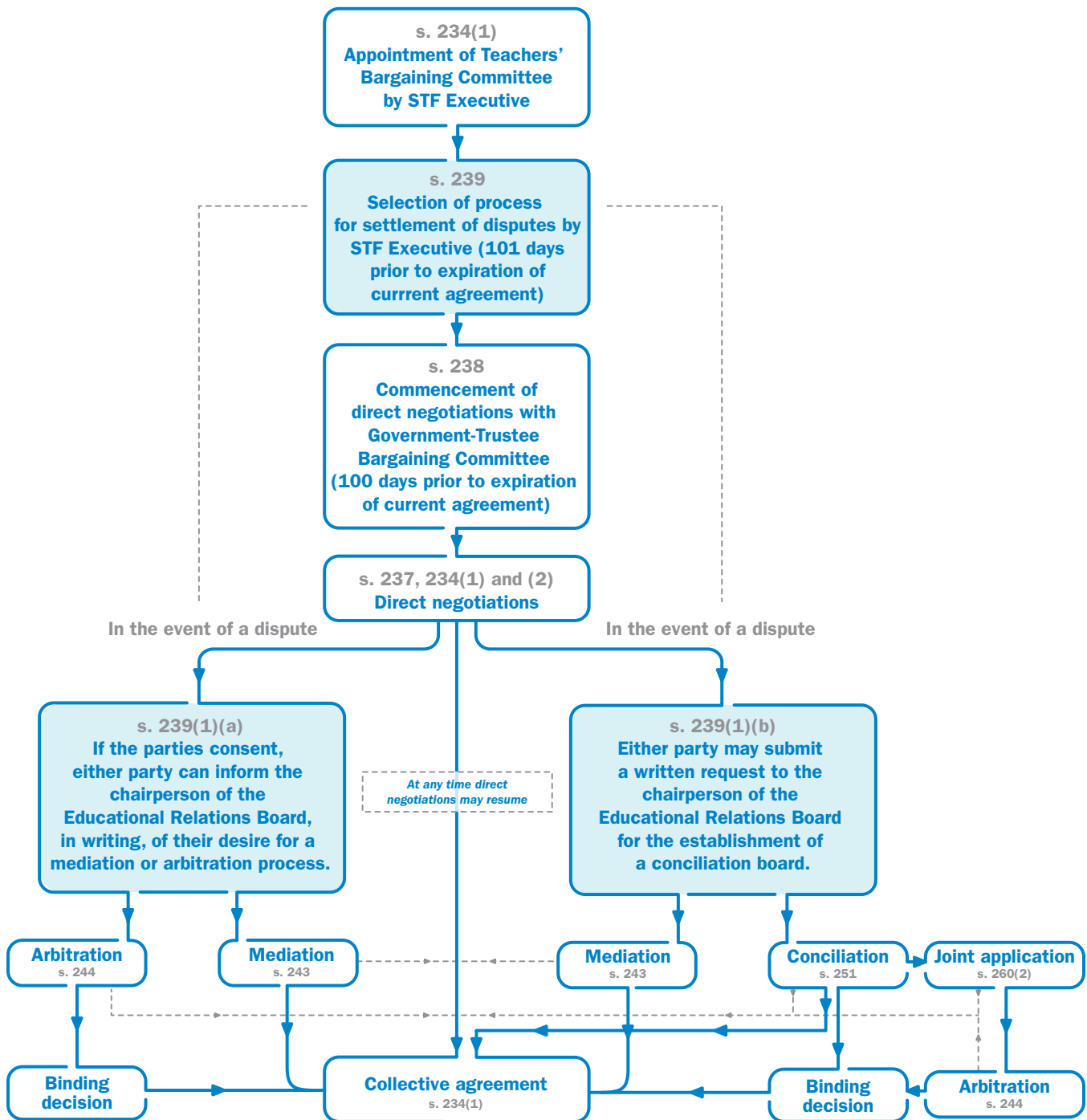
Collective bargaining agreements outline the terms and conditions of employment, grievance procedures, and joint committees, understandings or agreements accepted by all parties upon conclusion of negotiations.

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.

THE Provincial Collective Bargaining Process

The legislated processes to prepare for and engage in provincial collective bargaining negotiations are found in The Education Act, 1995.



Teachers' Bargaining Committee

Subsection 234(1) of *The Education Act, 1995* states that the Saskatchewan Teachers' 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). Those matters include negotiation of direct compensation, teaching and learning conditions, and pension and benefits on behalf of all members of the collective including:

- Salaries of teachers
- Allowances for principals and vice-principals
- Superannuation
- Group life insurance
- Criteria respecting the designation of persons as not being teachers
- Sick leave
- Duration of agreement
- Any matters ancillary to the listed items and those not listed as mandatory at the local bargaining level

In its governance role, the STF Executive reviews and approves the terms of reference for the Teachers' Bargaining Committee and appoints members on an annual basis. This statutory four-member Committee is comprised of the President, the Vice-President, one additional member of the STF Executive and the Executive Director or designate. Additional Federation staff, Executive members and external resource persons shall provide assistance to the committee as deemed necessary.

Selection of Process for Settlement of Dispute

Subsections 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 Federation must provide a written notice to the Minister of Education and the Saskatchewan School Boards Association specifying the preferred process for resolution of disputes no later than 101 days prior to the expiration of the existing Provincial Collective Bargaining Agreement. The Act also states that written notice must be filed with the chairperson of the Educational Relations Board. The two dispute process options are as follows:

- **s. 239(1)(a):** If the parties consent, either party can, in writing, inform the chairperson of the Educational Relations Board of their desire for a mediation or arbitration process as described in Sections 243 through 250.
- **s. 239(1)(b):** Either party can, in writing to the chairperson of the Educational Relations Board, request the establishment of a conciliation board as described in Sections 251 through 260.

The STF Executive decides which dispute resolution process will be selected for each round of bargaining and when the statutory notice to the Government-Trustee Bargaining Committee will be sent. During negotiations, the chairperson of the Educational Relations Board has the legislated authority to determine whether or not to grant the establishment of a conciliation board under Section 239(1)(b).

Commencement of Negotiations

In order to begin negotiations, the Teachers' Bargaining Committee sends a notice of intent to the spokesperson of the Government-Trustee Bargaining Committee and to the Saskatchewan School Boards Association. As legislated within *The Education Act, 1995*, this notice must be sent no later than 100 days prior to the expiration of the existing Provincial Collective Bargaining Agreement.

Negotiation Protocols and Processes

To begin negotiations, both parties need to agree when and where bargaining sessions will be held. After the official notification has occurred, the two bargaining committees will typically commit to a series of tentative dates for negotiations to be held in either Regina or Saskatoon.

During those sessions, the Teachers' Bargaining Committee and the Government-Trustee Bargaining Committee will bring their issues, as identified by their constituents, to the bargaining table.

The committees begin a bargaining process using what could best be described as a hybrid model of bargaining discourse. This model is a blend of interest-focused and positional bargaining, and is intended to meet the needs of each party to the agreement. The agreement reached must be acceptable to teachers, trustees and government.

Negotiation sessions are conducted in private. Prior to negotiations, the parties establish media release protocols as deemed necessary. Reporting on the progress of bargaining to the membership is the continuous and consistent responsibility of the Teachers' Bargaining Committee.

Timely updates and information regarding bargaining are provided to members. The methods of disseminating information continue to evolve and may include email communication, posts in the MySTF Member Updates section of the Federation website or other communication avenues. School staff liaisons also serve an important function in their role to

disseminate information provided by the Federation to their colleagues. If a significant event arises, the STF Executive may also direct the senior administrative staff to inform local association presidents, councillors and school staff liaisons via other avenues in a direct and timely fashion.

If, during the course of negotiations, the Teachers' Bargaining Committee determines that the process is not moving forward, the Committee has the option of recommending to the STF Executive that a dispute resolution process be sought. Once the STF Executive approves a course of action, the Teachers' Bargaining Committee will submit the appropriate information to the chairperson of the Educational Relations Board so that the course of action can be initiated. The course of action is contingent upon the submission of the letter to the chairperson of the Educational Relations Board at least 101 days prior to the expiration of the existing Provincial Collective Bargaining Agreement.

The Educational Relations Board is a legislated board with specific duties as outlined in Sections 241 through 242 of *The Education Act, 1995*. The Board oversees teacher collective bargaining processes and is responsible for considering application requests and for establishing mediation, conciliation or arbitration boards during negotiations. The Board 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.

Dispute Settlement Processes

Mediation

In the event mediation is chosen and approved as a dispute resolution process, the Educational Relations Board 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. The selection of either Subsections 239(1)(a) or 239(1)(b) by the STF Executive allows for mediation to be a process for the settlement of disputes during negotiations. 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, which is possible only if the STF Executive has chosen Subsection 239(1)(b) as the process for settlement of disputes, each party 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 Educational Relations Board.

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 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 Educational Relations Board. 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.

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. This is important to note because there is a minor difference between how proposals for dispute resolution processes are made as opposed to the implications of either process. As mentioned previously, Subsection 239(1)(a) allows either party to unilaterally make a request for arbitration, whereas Subsection 239(1)(b) requires that both parties jointly request arbitration if the conciliation process does not result in an agreement.

Special Mediation or Conciliation Board

Should it be deemed necessary, the Minister of Labour Relations and Workplace Safety has the authority to intervene in labour disputes in Saskatchewan. This authority rests in *The Saskatchewan Employment Act*, Sections 6-28 and 6-29, which provide for the Minister to appoint a mediator or conciliation board to assist the parties in resolving their differences and reaching an agreement.

Sanctions

The Education Act, 1995 does not explicitly state or condone the use of sanctions as a dispute resolution process. However, 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 Educational Relations Board denies a request to pursue either mediation or conciliation.

If all avenues prior to the imposition of sanctions have been exhausted, then the Federation membership may be required to participate in a sanctions vote. If the STF Executive determines sanctions are necessary, it is the responsibility of the Executive to call for job action. However, teachers must be convinced there has been a significant violation of the principles that underlie their bargaining interests.

A withdrawal of service is serious and may be perceived by the other party and the public as an ultimate form of political persuasion. 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 Teachers' Bargaining Committee and the STF Executive

have carefully evaluated exit strategies for every strategic decision or dispute resolution process they intend to pursue.

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:

1. The Teachers' Bargaining Committee and the Government-Trustee Bargaining Committee could agree to return to the bargaining table.
2. Boards of education and the government could impose sanctions of their own that might include a lockout.
3. Government could impose back-to-work legislation on teachers.

In the event that limited or full job action takes place, the STF Executive is responsible for deciding whether or not compensation will be provided to teachers from the Federation's Contingency Fund.

Reaching an Agreement

While it is important to be aware of the processes for settlement of disputes should they arise during negotiations, once again the overarching goal is to achieve the best possible negotiated agreement concluded in good faith, and voted upon and ratified by the membership. However, the Teachers' Bargaining Committee does not have the legislated mandate to reach an agreement on their own authority. This is rarely exercised and done so only with the approval of the STF Executive.

When a tentative agreement is reached that will be voted on by the membership, the Teachers' Bargaining Committee presents the agreement to the Executive for approval. If the Executive approves the agreement, the highlights are communicated via email and the MySTF Member Updates on the Federation website, www.stf.sk.ca. All members, including substitute teachers working on the day of the vote, are entitled to vote on the tentative agreement.

Tentative agreements are typically approved by the Executive to bring forward to the wider membership for consideration only after:

- The Teachers' Bargaining Committee and the Executive have engaged in continual consultations and collaborative decision making, and have a shared understanding about the events of bargaining.
- The Executive is confident that the Teachers' Bargaining Committee 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 Teachers' Bargaining Committee and the Executive are confident that the best possible agreement has been secured given the present context and circumstances.
- The Executive has made decisions based on the recommendations of the Teachers' Bargaining Committee.

Definitions

The following terms are used in Saskatchewan Teachers' Federation communications about the provincial collective bargaining process. We encourage teachers to become familiar with these terms and how they are used within the context of teacher bargaining.

Arbitration

A dispute resolution process defined in Sections 244 through 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. Decisions made by the panel are binding upon both parties.

Bargaining Spokesperson

The person appointed to speak on behalf of the Teachers' Bargaining Committee. Pursuant to the terms of reference approved by the STF Executive, the Executive Director or designate is the chief bargaining spokesperson for the Committee.

Collective Bargaining

Collective bargaining refers to the bi-level bargaining structure as defined in Sections 234 through 269 of *The Education Act, 1995*.

Conciliation

A dispute resolution process as defined in Sections 252 through 259 of *The Education Act, 1995*. In this process a panel is selected to hear submissions from each party to a collective bargaining dispute. 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. 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.

Consumer Price Index

The consumer price index is a term used by Statistics Canada and is described as the cost of a basket of approximately 600 items representing typical household expenditures such as food, shelter, clothing, furniture, transportation and recreation. The cost of the basket is tallied every month and these prices are tracked by Statistics Canada nationally and provincially, as well as for some of the major cities in each province. Food and energy costs tend to fluctuate more than other items in the CPI basket and thus are removed in order to measure price changes for core components of the CPI (Statistics Canada website).

Cost-of-Living Adjustment (COLA)

An adjustment made to active teacher salaries or superannuated teacher pension benefits in relation to the cost of living. The Saskatchewan Teachers' Superannuation Plan and the Saskatchewan Teachers' Retirement Plan each have a formula for a cost-of-living adjustment for teachers receiving pension.

Direct Compensation

Pensionable salary and allowances received by teachers and described in Article 2 and Article 4 of the Provincial Collective Bargaining Agreement.

Dispute

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

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 dispute resolution processes of teacher collective bargaining.

Grievance

A formal complaint process used to resolve differences. New language in Article 16 of the *2017-2019 Provincial Collective Bargaining Agreement* outlines the process:

16.1 A grievance may be filed alleging:

16.1.1 Violation of the terms and conditions of employment set out in *The Education Act, 1995* or the Regulations thereunder, as may be amended from time to time, or in other employment-related legislation applicable to teachers, or

16.1.2 That a discretionary decision made with respect to a teacher's employment was made arbitrarily or in bad faith.

Variations of the grievance resolution process also exist at the local level with respect to local collective agreements.

Impasse

An impasse in the bargaining process occurs when the two sides negotiating an agreement are unable to reach an agreement and become deadlocked.

Mediation

A dispute resolution process 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.

Member

A teacher that is under contract with a board of education or conseil scolaire as per Section 200 of *The Education Act, 1995* and is eligible for membership in the Federation in accordance with Subsection 17(1) of *The Teachers' Federation Act, 2006*.

Negotiations

Processes used to address teacher issues related to direct compensation, pension and benefits, and teaching and learning conditions at the provincial bargaining table.

Principal

A teacher with added administrative responsibilities as defined in Section 175 of *The Education Act, 1995*.

Principals, Vice-Principals and Assistant Principals Allowances

Direct compensation for teachers appointed to the position of principal or vice-principal, or for those grandfathered as assistant principals as described in Article 4 of the Provincial Collective Bargaining Agreement.

Proposal Information

Two documents – that are confidential and intended solely for member use – are prepared as follows:

- Proposals for Teachers' Consideration is a foundational document created from the input acquired from members through various engagement opportunities. These engagement opportunities ensure that teachers, local association leaders, councillors and the STF Executive all have input into the collective bargaining process. This document is debated and voted on by Council.
- Proposals for Teachers' Provincial Collective Bargaining contains the proposal information as approved by Council. These are the official teacher proposals used to begin negotiations and are also used as a guide for the Teachers' Bargaining Committee throughout the negotiation process.

Ratification

Ratification is a process that requires Federation members to vote for either accepting or rejecting a tentative agreement. The specific process for ratification is determined by the Executive based on the principles of fairness, accessibility, accountability and accuracy.

Sanctions

Sanctions are a range of actions used to reinforce bargaining positions. Sanctions can only be considered if dispute resolution processes are unsuccessful.

Sanctions Vote

The authority to impose sanctions rests with the STF Executive. Should they feel that sanctions are necessary, they may authorize the Teachers' Bargaining Committee to conduct a vote of the membership to determine the level of support for imposing sanctions.

Special Mediation or Conciliation Board

A dispute resolution mechanism provided through Sections 6-28 and 6-29 of *The Saskatchewan Employment Act* which provides for the Minister of Labour Relations and Workplace Safety to appoint a mediator or a conciliation board to assist the parties in resolving their differences and reaching an agreement.

Teacher (STF 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, trustees and the government.

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 refer to the offer, acceptance and confirmation of a contract within the prescribed forms of the Provincial Collective Bargaining Agreement and local agreements as defined in Section 209 of *The Education Act, 1995*.



Questions about teacher collective bargaining?
Contact STF Bargaining Support by email at bargaining@stf.sk.ca.

Discussions about teacher collective bargaining?
Use the TeacherTalk private members' forum in MySTF on www.stf.sk.ca.



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