



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

EDUCATION ACT LABOUR RELATIONS REGULATIONS

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to August 20, 2016. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office

Tel: (902) 368-4292

Email: legislation@gov.pe.ca



EDUCATION ACT
Chapter E-.02

LABOUR RELATIONS REGULATIONS

Pursuant to section 107 of the *Education Act* R.S.P.E.I. 1988, Cap. E-.02, Council made the following regulations:

1. Definitions

In these regulations,

- (a) “**Act**” means the *Education Act* R.S.P.E.I. 1988, Cap. E-.02;
- (b) “**collective agreement**” means a collective agreement between the Education Negotiating Agency and the authorized representative of instructional personnel;
- (c) “**Minister responsible for labour**” means the Minister responsible for the administration of the *Labour Act* R.S.P.E.I. 1988, Cap. L-1;
- (d) “**parties**” means the Education Negotiating Agency and the authorized representative of instructional personnel;
- (e) “**working days**” means days on which the offices of the members of the Education Negotiating Agency and of the authorized representative of instructional personnel are open during their regular office hours. (EC528/16)

2. Education Negotiating Agency composed of

- (1) The Education Negotiating Agency shall be composed of the following members appointed by the Minister:
 - (a) up to four representatives of the Minister;
 - (b) one representative nominated by the Treasury Board;
 - (c) up to two representatives from the Public Schools Branch;
 - (d) one representative from the French Language School Board.

Nominated by the education authority

- (2) The representatives referred to in clauses (1)(c) and (d) shall be nominated by the education authority from employees of the education authority who are supervisory personnel. (EC528/16)

3. Chief negotiator and spokesperson

The Minister shall designate one of the representatives appointed under subsection 2(1) as the chief negotiator and spokesperson of the Agency. (EC528/16)

4. Quorum

A quorum of the Agency shall consist of

- (a) two representatives referred to in clause 2(1)(a);
- (b) the representative referred to in clause 2(1)(b);
- (c) one representative referred to in clause 2(1)(c); and
- (d) the representative referred to in clause 2(1)(d). (EC528/16)

5. Prince Edward Island Teachers' Federation

- (1) The Prince Edward Island Teachers' Federation is designated as the authorized representative of instructional personnel.

Other designation

- (2) If the designation of the Prince Edward Island Teachers' Federation is revoked under subsection 7(1), the organization designated by the Minister responsible for labour under subsection 8(3) is designated as the authorized representative of instructional personnel. (EC528/16)

6. Other organization may apply for declaration

- (1) Where an organization other than that designated under section 5 as the authorized representative claims to represent a majority of instructional personnel, it may, in accordance with subsections (2) and (3), apply to the Minister responsible for labour for a declaration that the organization designated under section 5 as the authorized representative no longer represents a majority of the instructional personnel.

Time of application

- (2) Where the collective agreement in force is for a term of one year, an application under subsection (1) may be made only after the beginning of the fourth month of its term and before the end of the fifth month of its term.

Idem

- (3) Where the collective agreement in force is for a term of more than one year, an application under subsection (1) may be made only during the eighth and ninth months prior to the expiry of the collective agreement. (EC528/16)

7. Revocation of designation

- (1) Where, in the opinion of the Minister responsible for labour, the organization designated as the authorized representative of instructional personnel no longer represents the majority of instructional personnel, the Minister shall revoke the designation of that organization as the authorized representative.



Representation continues

- (2) Despite subsection (1), the organization whose designation is revoked under subsection (1) continues to be the authorized representative until a designation is made under subsection 8(3). *(EC528/16)*

8. Application for designation

- (1) Where the Minister responsible for labour has revoked the designation of an organization as the authorized representative in accordance with subsection 7(1), any organization may submit to the Minister responsible for labour an application to be designated as the authorized representative of instructional personnel.

Idem

- (2) Despite subsection 7(1), an organization whose designation is revoked under that subsection may submit an application under subsection (1) to be reinstated as the authorized representative.

Designation

- (3) The Minister responsible for labour shall review the applications submitted under subsection (1) and shall designate as the authorized representative of instructional personnel the organization that in the opinion of the Minister responsible for labour represents the majority of instructional personnel. *(EC528/16)*

9. Preparation for negotiation

In preparation for the negotiation of a collective agreement, the parties shall

- (a) not later than six months, excluding July and August, before the expiry date of the current collective agreement, meet to determine the data and information that each should make available to the other;
- (b) not later than four months, excluding July and August, before the expiry date of the current collective agreement, meet to present and analyze the data and information that each has collected in accordance with clause (a); and
- (c) prior to the commencement of formal negotiations, attempt to resolve as many issues as possible through mutual consultation. *(EC528/16)*

10. Notice to commence negotiations

- (1) Within a period of three months and 14 days, excluding the months of July and August, preceding the expiry date of the collective agreement in force at the time, either party may, by notice in writing, require the other party to commence formal negotiations with a view to the renewal or revision of a collective agreement or the adoption of a new collective agreement.

Consent to negotiate

- (2) The parties may negotiate at any time by mutual consent. *(EC528/16)*

11. Meet within 14 working days

When one party has given notice under section 10, representatives of the parties shall meet, within 14 working days of the notice, and commence negotiations with a view to the renewal or revision of a collective agreement or the adoption of a new collective agreement. *(EC528/16)*

12. No discontinuance on grounds of improper notice

- (1) Where the negotiations have commenced, neither party shall discontinue or withdraw from the negotiations on the ground that no notice, or improper or insufficient notice, has been given under section 10.

Copy of notice to Minister

- (2) Where a party has given notice under section 10, a copy of the notice shall be delivered to the Minister. *(EC528/16)*

13. Collective agreement remains in force

- (1) A collective agreement remains in force until a new collective agreement is adopted to replace it.

Minimum term

- (2) Every collective agreement shall have a minimum term of at least one year.

Retroactive provisions

- (3) All provisions of a new collective agreement with respect to salary, special allowances and supplementary financial benefits shall be retroactive to the day following the expiry date of the preceding collective agreement. *(EC528/16)*

14. Appointment of conciliation officer

Where a notice to commence negotiations has been given under section 10 and

- (a) negotiations have not commenced within the time prescribed by section 11;
- (b) negotiations have commenced and continued for 45 days, and either party requests the Minister responsible for labour, in writing, to appoint a conciliation officer to confer with the parties to assist them in concluding a collective agreement or a renewal or revision of it, and the request shall be accompanied by a statement of the difficulties that have been encountered before the commencement or in the course of negotiations; or
- (c) in any other case in which, in the opinion of the Minister responsible for labour, it is advisable to do so,

the Minister responsible for labour shall, within 15 working days of receiving the request, appoint a conciliation officer to confer with the parties engaged or proposed to be engaged in negotiations. *(EC528/16)*

15. Duties of conciliation officer

- (1) The conciliation officer appointed under section 14 shall inquire into the matters in dispute and endeavour to bring about agreement between the parties.

Report of conciliation officer

- (2) The conciliation officer shall submit a report to the Minister responsible for labour
- (a) within 10 working days of a successful conclusion to the conciliation; or
- (b) within 20 working days of the appointment of the conciliation officer, where the parties fail to reach an agreement within that period.



Idem

- (3) Where the parties have failed to reach an agreement as set out in clause (2)(b), conciliation shall cease, and the report of the conciliation officer shall set out the matters agreed between the parties and those matters on which the parties cannot reach agreement. (EC528/16)

16. Arbitration board

Where the parties have not adopted a new or revised collective agreement on the expiry date of the existing collective agreement and

- (a) either party requests, in writing, the appointment of an arbitration board; or
- (b) in the opinion of the Minister responsible for labour, an arbitration board should be established,

the Minister responsible for labour shall give notice to the parties to name their appointees under section 17. (EC528/16)

17. Members of arbitration board

- (1) An arbitration board shall be composed of
- (a) a nominee of the Agency;
 - (b) a nominee of the authorized representative; and
 - (c) a third member as chairperson to be appointed in accordance with this section.

Party appointees

- (2) The parties shall name their nominees to the arbitration board within 30 days of notice by the Minister responsible for labour that an arbitration board will be appointed.

Failure to name appointee

- (3) Where a party fails to name a nominee as required by subsection (2), the Minister responsible for labour shall appoint a person to the arbitration board to serve on behalf of that party.

Appointment of arbitration board

- (4) The Minister responsible for labour shall appoint the arbitration board members representing the parties, within 30 days of the notice given under section 16.

Chairperson

- (5) The appointees representing the parties shall, within 30 days of their appointment, appoint a third person to act as chairperson.

Failure to agree on chairperson

- (6) In the event that the appointees fail to agree on a chairperson as provided in subsection (5), either appointee may request that the Minister responsible for labour appoint a chairperson. (EC528/16)

18. Powers of arbitration board

- (1) An arbitration board has the power
- (a) to hear and determine the matters in dispute between the parties to the collective agreement;
 - (b) to administer oaths and affirmations; and

- (c) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence and to produce documents.

Determines own procedure

- (2) Except where otherwise provided in these regulations, an arbitration board
- (a) may determine its own procedure respecting the hearing; and
- (b) shall give the parties the opportunity to be heard and to be represented by counsel.

Matters to be dealt with by arbitration board

- (3) The arbitration board shall deal with matters not resolved through consultation, negotiation or conciliation, and it may, after consultation with the parties, consider previously resolved matters in order to arrive at its decision. *(EC528/16)*

19. Notice of hearing

- (1) Within 10 working days of the chairperson's appointment, the chairperson of the arbitration board shall give notice to the parties of the date, time and place of the hearing, which shall be set for not more than 30 days after the chairperson's appointment.

Quorum

- (2) The chairperson and one other member of the arbitration board constitute a quorum.

Condition

- (3) Despite subsection (2), if any member is absent from a meeting of the board, the other two members shall not proceed unless satisfied that the third member had been notified in ample time to permit the member's attendance.

Absent member

- (4) Despite subsection (2), in the case of the absence of any member due to illness or other reasonable cause, the other two members shall not proceed until the absent member has returned or has been replaced.

Replacement member

- (5) Where a member of an arbitration board is to be replaced in circumstances set out in subsection (4), section 17 applies with any necessary changes.

Procedure

- (6) The decision of the majority of the members of an arbitration board shall govern on questions of procedure, admissibility of evidence and other matters which arise during the hearing, but, lacking a majority decision, the decision of the chairperson shall govern. *(EC528/16)*

20. Considerations in making award

- (1) The arbitration board shall make its award based upon a consideration of
- (a) the relationship of income and other benefits for instructional personnel to those available to teachers, substitute teachers and other persons working in the public school systems in other Atlantic provinces, giving appropriate consideration to the varying provincial economic capacities, including available assistance from outside sources;
- (b) the trends and inter-relationship of pay and other factors within various professional and non-professional groups in both the private and public sectors;



- (c) the requirement to obtain and retain competent instructional personnel within the English school system and French school system;
- (d) the relationship between pay, professional qualifications and responsibility; and
- (e) any other factors that are relevant, including conditions of work and fringe benefits.

Award within 20 working days

- (2) After making full inquiry, the arbitration board shall make an award, setting out its decision, within 20 working days of the hearing, as to the manner in which all matters in dispute between the parties shall be settled. *(EC528/16)*

21. Members sign award

- (1) The award of the arbitration board shall be signed by the members concurring therein, and copies of the award shall be provided to the parties and to the Minister.

Majority award

- (2) A decision of, or award of, a majority of the members shall be the decision of the arbitration board.

Minority report

- (3) A member of the arbitration board may submit, to the parties and to the Minister, a minority report.

Award binding

- (4) An award of an arbitration board is binding upon all persons bound by the collective agreement and all those persons shall do or abstain from doing anything as required of them by the award. *(EC528/16)*

22. Collective agreement after award

Within 30 working days of the date of an arbitration award, the parties shall prepare and sign a collective agreement embodying all matters settled in the award together with all matters previously agreed on in negotiation or conciliation between the parties. *(EC528/16)*

23. Fees and expenses

Each party to the arbitration shall pay

- (a) the fees and expenses of its appointee;
- (b) one-half of the fees and expenses of the chairperson; and
- (c) one-half of the secretarial and other expenses necessary for the carrying out of the duties of the arbitration board. *(EC528/16)*

24. Variation of time

- (1) Despite any other provision of these regulations, the parties may, by mutual consent, waive, alter or vary the time required for doing anything or the coming into effect of anything under these regulations.

Technicalities

- (2) No proceedings in these regulations shall be deemed invalid merely by reason of a defect in form or a technical irregularity. *(EC528/16)*

25. Arbitration Act does not apply

The *Arbitration Act* R.S.P.E.I. 1988, Cap. A-16, does not apply to an arbitration under these regulations. (EC528/16)

26. Revocation

The *School Act* Education Negotiating Agency Regulations (EC45/95) are revoked. (EC528/16)

