



Submission on Bill 92, an Act to amend the School Boards Collective Bargaining Act, 2014

When the School Boards Collective Bargaining Act was initially announced, a commitment was made to review the Act following the first round of collective bargaining within its framework. In good faith, OSSTF/FEESO accepted that the review would be real, meaningful and take into consideration suggestions that were made.

We are disappointed to see that the review has been limited to tinkering around the edges rather than engaging in a meaningful and honest assessment of the process of bargaining under the SBCBA. Simply claiming it was successful because it resulted in collective agreements ignores the lengthy period of uncertainty faced by parents, students and Board employees.

An overarching challenge throughout negotiations under the SBCBA was the structure of the school boards' associations. Throughout the process, it was made clear time after time that there was no functional decision making mechanism. In effect, as reported to us at the bargaining table, school boards attempted to work on a consensus model within their back room. With issues as big and complex as those faced at central bargaining, consensus was elusive, leading to a great deal of frustration, wasted time and expense for all involved. Past experiences with PDT style agreements, and even the MOU bargaining in 2013 involved government being the other party to the agreement, with school boards participating in a more consultative role than decision making.

During the initial steps of bargaining, the SBCBA mandates that the central parties agree to identify those issues that are central, and those (by default) that are local. Once determined, there is no "cross-table" bargaining and the issues live and die at their prescribed level. OSSTF/FEESO took a minimalistic and realistic approach to creating the central list of topics. History has shown us that local bargaining has been the most effective model in addressing local education needs.

During 2014/2015, OSSTF/FEESO pushed to keep most issues local, with the obvious exceptions of "big ticket" financial items such as salary, benefits, staffing levels and sick leave. Conversely, school boards pushed just as hard to bring a much broader list of topics to the central table. The SBCBA created a process whereby disputes as to whether issues are central or local would be determined through the Ontario Labour Relations Board (OLRB). After many months of discussions at the Teacher and Occasional Teacher (T/OT) table, the parties agreed to move to the OLRB for case management. Through a series of mediated discussions, it became clear that there was going to be no timely resolution, so in order to move things along, we agreed to bring the expanded list of topics to the central table. At the Support Staff table, we moved more quickly to this conclusion, having learned the leanings of the OLRB through the T/OT process.

The result of bringing so many issues to be dealt with at the central table was as unsuccessful as we had anticipated. Where agreement could not be reached, those issues remain status quo to the previous local language, making it impossible for either side to address legitimate problems. In fact, the majority of items brought to the central table were either deemed status quo or sent to a workgroup for further study. Only a minority of items were actually bargained to conclusion. On the other hand, we had a great deal of success in dealing locally with those items that were designated to be locally bargained.

While we had 2 central tables to contend with, government and school boards had 9 tables in total. This led to a process with bargaining occurring nearly every day for well over a year. In addition to obvious logistical scheduling difficulties, the number of tables also led to fatigue and competing interests from the other side. It became clear throughout the process that management was timing the tables and only letting any particular table progress so far before stopping it and allowing the others catch up. Despite claims and assurances to the contrary, there was only going to be one core deal, with very minor variations on the less significant points. For this reason, the school boards and government were often more interested in staging the timing than in substance.

While we always believed the structure of the parties would be a tripartite arrangement, what emerged was something quite different. School board associations and representatives of the Crown described themselves as the “management team”. The dysfunction created by this model was evident throughout in that government and school boards had competing interests with one another as they tried to operate as a single team. Our previous experience with true tripartite talks through the Provincial Discussion Tables yielded much better results. Further evidence of this can be gleaned from the extension and remedy talks this year being started between the government and union with school boards entering later to identify issues important to them and to help focus agreed to funding as necessary.

It should be noted that the inaugural round of bargaining within the SBCBA led to the largest strikes involving full withdrawal of services in OSSTF/FEESO in 40 years. Strikes were not settled through collective bargaining but through back-to-work legislation that added even more contention into the education sector. In many jurisdictions, long term job actions remained in effect for extended periods of time. The final local agreement was not settled until August of 2016, more than two full years after the whole process had begun.

In summary, negotiations thus far under the SBCBA can only be described as an abject failure. However, OSSTF/FEESO remained optimistic that perhaps through the review process the legislation could be revamped into something more successful. That would have required changes more akin to an overhaul than the proposed tinkering. The amendments being contemplated through this legislation give us absolutely no reason to believe that future rounds of collective bargaining will be any more successful than was the last one. While we participated in several rounds of so called consultations, our recommendations were not taken into account. When we asked representatives of the Crown to identify where our input had been incorporated, not a single citation could be made.

For the purposes of these hearings and within the context noted above, we are providing the list of recommendations that we believe would provide a model that could lead to successful collective bargaining, opportunities to address community needs within those communities and stability in the education sector.

Recommendations:

1. The Parties to central bargaining should be the Unions and the Crown. School Board Associations should work with the Crown in a consultative role if so desired, but not in a decision-making capacity.
2. The issues to be covered by central bargaining should be predetermined by the parties through mutual consent.
3. If no agreement can be reached, there should be a limited default list including proper central topics such as salary, benefits, sick leave and staff generation. The scope within central topics should also be clear with local implementation provisions as necessary. This process of discussing the central-local split should have a firm deadline and not be subject to adjudication by the OLRB.
4. Other than those items expressly dealt with at the central table, local bargaining should be unfettered.
5. School boards, the Crown and unions should be bound by central agreements.
6. OSSTF Support Staff and T/OT should negotiate a single central agreement at a single table.
7. The overall number of central tables should be reduced.
8. If numbers 1, 2 and 3 above are adopted, bargaining should be staged so that central bargaining is concluded before local bargaining begins.
9. Central bargaining should begin 6 months before the expiration of existing collective agreements.
10. Local boards should have no jurisdiction over central terms in any way and should be required to adhere to central terms.