



THE COLLECTIVE BARGAINING PROCESS

NLTA Policy

and

Legislation

January 2020

NLTA Policy

NLTA Policy on collective bargaining is designed to give the Association a framework within which to function in preparation for and during a set of negotiations. The Association accepts as its responsibility the protection, at all times, of the job security of its members. The Association will vigorously pursue avenues to provide for reassignment and/or retraining when such become necessary.

A. Collective Bargaining

1. Bargaining Agent

The NLTA is the appropriate bargaining agent for all teachers, as defined in Paragraph v of Section 2 of the Schools Act, 1997, who are employed with a school board or private school in Newfoundland and Labrador and/or who are employed by any agency or department of government.

2. Bargaining Units

Each bargaining unit of the NLTA shall include all teachers, as defined in Paragraph v of Section 2 of the Schools Act, 1997, who are employed by the employers referred to in paragraph 1. above that are bargaining with that unit.

3. Costs Associated with Bargaining

The costs associated with collective bargaining shall be absorbed by the Emergency Fund in keeping with the finance policy of the NLTA.

4. Procedures for Development of Opening Proposals

Procedures to be followed for the development of proposals for a new Collective Agreement are as follows:

- a) The Collective Bargaining Committee, a standing committee of the NLTA Provincial Executive, is established when necessary.
- b) The Collective Bargaining Committee will develop opening proposals for negotiations. In its deliberations, the Committee will consider all material necessary to obtain views representative of the total spectrum of the membership. The material should include, but not be limited to:
 - i) Problem areas of the current Collective Agreement;
 - ii) Other current collective agreements in the province;
 - iii) Current collective agreements of affiliates across Canada;
 - iv) Convention resolutions;
 - v) NLTA policy;
 - vi) NLTA collective bargaining files;
 - vii) Written submissions from individuals, branches and special interest councils;
 - viii) Report of previous negotiating committee.
- c) The Collective Bargaining Committee will facilitate the gathering of information on problems with current articles, suggested improvements in current articles, and possible new articles.
 - i) Branch presidents will be requested to make written submissions to the Collective Bargaining Committee, on behalf of their branches, which reflect the views of their members on the objectives for bargaining and the specific modifications, to be sought. The method of obtaining information from the members in this respect will be determined by the branches in cooperation with the Collective Bargaining Committee.
 - ii) Special interest councils will be requested to provide input similar to the above.

Submissions referred to above will in no way restrict any group or individual from submitting briefs, either written or oral, to the Committee.
- d) Once the Collective Bargaining Committee has determined the generalities of what is to be included in the opening proposals, a sub-committee will then be set up whose objectives shall be to:

- i) prepare the actual wording of each article recommended by the Collective Bargaining Committee, and
- ii) present the final draft of the opening proposals to the Collective Bargaining Committee for ratification.

This sub-committee will consist of the Chairperson of the Collective Bargaining Committee, one other member of the Collective Bargaining Committee, and a resource person from NLTA staff.

- e) The proposals along with recommended priorities for negotiations will subsequently be presented to Executive by the Collective Bargaining Committee.
- f) The Executive will review the proposals and suggested priorities, recommend changes, if any, and return the proposals to the Collective Bargaining Committee for the final draft.
- g) Before Executive gives final approval to the opening proposals and priorities, a meeting of the Joint Council will be held for the purpose of reviewing the priorities and general objectives established. This meeting will not examine specific wording changes, but would confirm whether or not the Collective Bargaining Committee and Executive are properly attuned to the membership's wishes.

5. **Negotiating Team for Provincial Negotiations**

- a) A Negotiating Team shall be appointed prior to the beginning of provincial contract negotiations. The Team shall be appointed by the Provincial Executive upon recommendation from the President. The Negotiating Team shall have a full mandate to negotiate a tentative agreement and to recommend same to Provincial Executive.
- b) Representation on the Negotiating Team shall consist of:
 - i) The NLTA Vice-President who shall serve as Chairperson of the Team.
 - ii) Seven members of the Association in accordance with the following:
 - a member of the Provincial Executive;
 - a primary/elementary teacher;
 - an intermediate/high school teacher;
 - a representative from the School Administrators' Council;
 - a member employed at a district/regional office (e.g. program specialist, educational psychologist, itinerant teacher);
 - a member employed in a small K-12 school (as a general guideline, a school with fewer than 100 students);
 - a member employed as a Teaching and Learning Assistant; and
 - a substitute or replacement teacher.

Where possible, at least one of the above-referenced members shall be chosen from among those who served on the Negotiating Team for the previous round of negotiations.

- iii) The Assistant Executive Director or a Programs and Services Administrative Officer, who shall serve as Chief Spokesperson at the negotiating table.
- iv) A Programs and Services Administrative Officer who shall serve as Staff Consultant to the Team.
- c) Every effort will be made to ensure:
 - i) equal representation of males and females,
 - ii) generational equity,
 - iii) representation from large and small schools,
 - iv) representation for urban and rural schools, and
 - v) balanced geographical representation on the Team.

6. Communications with the Membership

- a) Following the exchange of opening packages between the parties, a series of branch meetings will be arranged to give a summary of the NLTA opening proposals, and a summary of the government/school board opening proposals to all teachers.
- b) The Executive shall advise the membership on the progress of negotiations as fully as is deemed advisable by the Executive.
- c) Regular communications in the form of special newsletters will be forwarded to each teacher in the province following the beginning of negotiations. The purpose of the communications is to keep teachers generally informed of the status of negotiations even if no progress has been made. During periods of negotiations, a negotiations update will be on the agenda for Joint Council meetings.
- d) The Association shall inform the membership about negotiations through branch presidents prior to the release of information to the public media. However, during collective bargaining and, in particular, during collective bargaining crises, when deemed strategically appropriate, the Provincial Executive has the authority to email or fax information first to branch presidents and then immediately to the media without an intervening *wait* period. When the latter is done, branch presidents will be so informed by a notation on the message forwarded to them.
- e) Presentations on negotiations at special branch meetings will be made jointly by the branch president and the Executive contact person.
- f) All branches are requested to put in place a special communications network for the purposes of disseminating negotiations information and of determining the views of the membership on negotiations issues when requested. This network must be organized so that:
 - i) each branch executive member is assigned a school(s) for which s/he accepts communication responsibility,
 - ii) a school representative(s) is identified who accepts the responsibility for negotiations communications within his/her school, and
 - iii) a branch president/executive member/school representative telephone tree network is established.

7. General Guidelines

- a) Negotiations should begin at least four months prior to the expiry date of any current agreement. The date for requesting the commencement of negotiations is determined by the Provincial Executive.
- b) During periods of negotiations, the Chief Negotiator will give regular reports to the Executive.
- c) Any change(s) made in existing and further collective agreements shall be made known to all members of the Association.
- d) Immediately following Provincial Executive's consideration of the Negotiating Team final reports, said final reports will be circulated to all branch presidents.
- e) A strategy response team will be formed to handle the coordination of activities at the NLTA office during crucial stages of negotiations.
- f) A decision to request the appointment of a Conciliation Officer or to move to the Conciliation Board stage of negotiations shall be made by Provincial Executive upon recommendation from the Negotiating Team.

The approval of the NLTA nominee and the Chairperson of a Conciliation Board shall be made by Provincial Executive, upon recommendation from the Negotiating Team.

8. Membership Voting Requirements and Procedures

- a) A vote will be conducted among the membership on conciliation board reports.

- b) A province-wide vote is to be held prior to any contemplated job action by the Association.
- c) When information is circulated to the membership in advance of a strike vote, it must include information on the provision for a special levy, in accordance with By-Law XIV.J., for payment of indebtedness incurred during a strike.
- d) An affirmative strike vote giving Provincial Executive the authority to call a strike:
 - i) in no way compels Executive so to act;
 - ii) nor is it intended to dictate to Executive the timing or manner of invoking a strike.
- e) Before a collective agreement is signed, it must be ratified by a majority vote of the membership. The holding of a ratification vote must be approved by the Provincial Executive.

The wording of the ballot must always include at least the right of the voting member to accept and the right to reject and must be approved by a majority vote at the Joint Council meeting. In the event that more than two items are placed on a ballot, a majority vote of the membership will be required to accept an option. Should no option receive a majority, a run-off ballot shall be carried out listing those two items which received the highest number of votes on the first ballot.

- f) Substitute teachers who qualify for active membership as per By-Law III are eligible to participate in a ratification vote.
- g) After a province-wide vote is taken, the results of the ballot shall be released to teachers.
- h) After a province-wide vote is taken and ballots received from individual branches have been reconciled with any telephone vote that has been received, the NLTA staff, by Executive motion, will be authorized to destroy the ballots in question once an accurate tabulation and record has been compiled of said voting incident, but not less than 60 days after the date of the ballot.

9. Negotiations in Local Bargaining Units

- a)
 - i) There shall be coordination between the committee responsible for the development of the provincial opening proposals and the committee drafting the opening proposals of the local bargaining unit, in order to ensure consistency in approach and to avoid conflict in the adjustment of specific articles.
 - ii) The opening proposals shall be approved by the Provincial Executive prior to its release to the local teachers or to the school board(s).

In the event that the board(s) submits a notice to negotiate, the local unit shall immediately notify the NLTA provincial office.
 - iii) Prior to the commencement of a round of negotiations for the local unit, a meeting or meetings between the provincial President, or his/her designate, the chief negotiator for the local unit, the local branch president, and the Chairperson of the local negotiating committee shall be held to discuss issues of mutual concern such as negotiations, strategy, and media presentation.
 - iv) The generalities of the opening package shall be made known to the teachers prior to submission to the school board(s).
 - v) The Provincial Executive shall, on the recommendation of the branch, appoint the members of the negotiating committee and the chief negotiator, who shall be a member of the NLTA provincial staff.
 - vi) There shall be constant communication between the local negotiating committee, the local branch president, and the NLTA provincial office throughout negotiations.
 - vii) There shall be involvement of provincial personnel before an impasse is declared.
 - viii) The Provincial Executive must approve the holding of a ratification vote.
 - ix) All votes taken during collective bargaining by any bargaining unit of the NLTA shall be recorded in writing and sent to the St. John's office within one week of the vote.

- x) The Collective Agreement shall include the signatures of the president of the branch and of the President of the Newfoundland and Labrador Teachers' Association.
- b) Job action will be supported by the Provincial Executive on the basis of the following:
 - i) The requirements of Section (a) and the Teachers' Collective Bargaining Act have been fulfilled.
 - ii) There shall be a vote by secret ballot of the local membership before any sanction is imposed.
 - iii) There must be approval by the Provincial Executive before the imposition of a sanction.
 - iv) In the event that the proposed sanction is in the nature of withdrawal of services, the positive vote required shall be determined by the Provincial Executive following consultation with the local group.
 - v) Financial support of the membership in a withdrawal of services shall be determined from time to time by the Provincial Executive and the terms of such support shall be made known to the membership prior to a job action vote being taken.
 - vi) When a sanction has been authorized by the Provincial Executive, it shall be the responsibility of the local group to establish a job action committee which, under the direction of the Provincial Executive, shall organize and coordinate the job action. (Also see Section B. - Job Actions)

10. Administrators/Program Specialists and the Bargaining Unit

NLTA will ensure that administrators and program specialists remain as part of the collective bargaining unit.

LEGISLATION

Collective bargaining for teachers in the province of Newfoundland and Labrador is governed by “The Teachers’ Collective Bargaining Act”, more formally entitled “An Act to Provide for Collective Bargaining Respecting Teachers’ Salaries and Working Conditions”. This piece of legislation delineates the specific nature of the steps which are to be taken in negotiating collective agreements for teachers, and outlines the relationships which must exist between school boards, government and teachers. The summary below is intended to highlight the relevant sections of the Act which deal with the steps in the negotiation process.

STEP 1: INITIATING THE COLLECTIVE BARGAINING PROCESS

A. *Date of Request:*

Section 26(4)(a) of the legislation provides that either party may request the negotiation of a new agreement by giving written notice to the other party within the period of three months, prior to the expiry date of a current agreement.

Section 26(4)(b) of the legislation allows the parties, by mutual consent, to agree to commence negotiations at any time. Clause 43.01 of the collective agreement states that negotiations may begin upon a request from either party within ten months immediately prior to the expiry of a current agreement, and is representative of the flexibility given the parties under Section 26(4)(b).

B. *Appointment of Negotiating Teams:*

Section 10(1) of the Act states that a “school board committee” shall be appointed consisting of seven persons who will act as the negotiating team for government and for school boards. The committee is comprised of four representatives from the school boards and three from government. One of the three from government (appointed by the President of Treasury Board) acts as chief negotiator.

Section 12(2)(a) of the Act states that the bargaining committee of the Newfoundland and Labrador Teachers’ Association “shall consist of those persons appointed by the council of that association”. The Provincial Executive of the Association, upon recommendation from the President, makes the final decision on the selection of the negotiating team. The Vice-President serves as chairperson of the team and the Assistant Executive Director serves as chief negotiator.

STEP 2: COMMENCEMENT OF COLLECTIVE BARGAINING

Section 12(1) of the Act states that the President of Treasury Board, after receiving a request to initiate bargaining, shall direct the school board committee to begin the process. That committee shall within 30 days after such direction, enter into collective bargaining and “shall make every reasonable effort to come to an agreement for the purpose of making a collective agreement”.

STEP 3: IMPASSE RESOLUTION MECHANISMS

Every collective bargaining process must contain a mechanism to assist the parties in reaching agreement when an impasse over issue(s) occurs. The mechanism utilized for teachers under the Collective Bargaining Act has a number of unique features which are summarized below.

A. *Appointment of a Conciliator:*

Section 13 of the Act makes provision for the appointment of a conciliator upon the request of either party to the chairperson of the Labour Relations Board. The conciliator is a conciliation officer employed with the Department of Labour and is charged with the responsibility of assisting the parties to reach agreement on outstanding issues.

B. Appointment of a Conciliation Board:

Section 14 of the Act moves a step beyond the single conciliator level and permits either party to request of the Minister of Labour the appointment of a conciliation board. When appointed under this section, a conciliation board consists of a chairperson and two members. Each party appoints a member and these two select a third person to chair the board. Each party has seven days within which to appoint a member and the members in turn have seven days to appoint a chairperson. In the event of a failure to appoint, request can be made to the chairperson of the Labour Relations Board to make the appointment.

The conciliation board gives the parties full opportunity to present evidence and make representation on the outstanding issues. Fourteen days after its appointment, the board is supposed to report its findings and recommendations to all parties.

Finally, each party has fifteen days after it has received the report of the conciliation board to notify the Minister of acceptance or rejection of all or part of the recommendations contained in the report. (Although time lines in the Act are specific, they are often altered, because of circumstances, by mutual consent.)

C. Binding Arbitration:

If the conciliation process outlined above does not bring about an agreement, the parties may, if they mutually agree in writing, refer all matters in dispute to an arbitration board in accordance with Sections 21 and 22 of the Act. The arbitration board under these sections is set up in the same fashion as the conciliation board referenced in Step 3, item B. The decision of the arbitration board on outstanding issues is final and binding on all parties.

D. Strike/ Lockout:

Section 31 of the Act gives teachers the right to strike and gives school boards and government the right to declare a lockout, in order to apply pressure to conclude an agreement. A strike, strike vote, or lockout cannot occur until seven days have elapsed from the date on which both parties have informed the Minister if they have accepted the report of the conciliation board established under Section 14.

A strike, strike vote, or lockout is not permitted during arbitration proceeding or during the term of an existing collective agreement.

STEP 4: RATIFICATION

Section 19 of the Act gives the negotiating committee for both parties the authority to initial a provisional or tentative agreement. Within twenty days of receipt of the tentative agreement, every school board in the province and the NLTA shall notify the President of Treasury Board, in writing, if it accepts the tentative agreement.

Worthy of note here are Sections 28 and 29. Section 28 states that every provision of a collective agreement made under the Act which relates directly or indirectly to the expenditure of public funds of the province is binding on every school board, if the board was represented on the school board committee or is a party to the agreement. Section 29, however, states that any provision other than those referenced under Section 28, is not binding on a school board which was not a party to the collective agreement.

THE NEGOTIATIONS PROCESS

