

**OECTA  
ASSOCIATION REPRESENTATIVE  
HANDBOOK**

**2007-08**

ONTARIO ENGLISH  
**Catholic  
Teachers**  
ASSOCIATION

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# ABOUT OECTA

## MEMBERSHIP

- women and men who teach in the elementary and secondary schools of Catholic District School Boards and School Authorities in Ontario;
- all occasional teachers in those schools;
- all continuing education teachers in those schools;
- all teachers employed as consultants and co-ordinators in Catholic school systems.

## PROVINCIAL EXECUTIVE

Elected by delegates at the Annual General Meeting

## PROVINCIAL OFFICE

President, First Vice-President, General Secretary,  
Deputy General Secretary and Professional and Support Staff

### COLLECTIVE BARGAINING

Advise locals on bargaining issues and government policy and development

### COMMUNICATIONS

Produce Association's Newsletters, AGENDA, FAXAGENDA and Website

### CONTRACT SERVICES

Process grievances and arbitrations, EI, LTD, WSIB and Health & Safety

### COUNSELLING & MEMBER SERVICES

Assist teachers experiencing difficulties in their professional lives

### PROFESSIONAL DEVELOPMENT

Assist and provide professional services, eg. publications and source documents

### GOVERNMENT RELATIONS

Lobby all political parties on education and social justice issues

## LOCAL UNITS

At least one per school board; unit representatives are elected by unit members annually

## LOCAL BARGAINING UNITS

One each per elementary, secondary and occasional teacher group in each school board; representatives are elected by respective local bargaining unit members

## ASSOCIATION REPRESENTATIVE

One in every school and/or worksite.  
The key link between teachers in each school and OECTA

# CHAPTER 1

## OECTA REPRESENTATIVES ASSOCIATION REPRESENTATIVES

### Part 1

## General Role and Responsibility

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The Association Representative, or Association “Rep” has been called many names over the years. But the role has now changed. The Association now uses the title Association Representative, and it is not just nomenclature.

### **WHY THE ASSOCIATION REPRESENTATIVE DESIGNATION?**

There have been many models of selecting such “Representatives” at schools or other work sites such as board offices or curriculum support field offices. In the past representatives may have been elected, appointed by principals, chosen from all employees at a site or simply survived through a process of attrition and emerged as the only volunteer. Since the advent of Bill 160 (January 1, 1998) and the inception of teacher bargaining under the *Ontario Labour Relations Act* (OLRA), the Association Representative is so named to guarantee fair representation for members at a site, and to represent the Association to these members.

The other terms – school representative, staff representative, shop steward, union representative – all have inherent drawbacks or are not appropriate for the role. The “Association Rep” title transcends schools and board offices, but more importantly it emphasizes that this person represents the Association which is the “bargaining agent” in the workplace.

### **PRESENTING ASSOCIATION POLICY**

In general, the policies of the Association are determined through a democratic process at the Annual General Meeting of OECTA. The Provincial Executive is also charged with directing the Association between annual meetings to ensure accuracy in presenting policies and procedures.

In order to keep members informed on OECTA policy matters:

- Rely on written materials produced by the Association.
- Familiarize yourself with the content of all material distributed by the Association.
- Contact unit officers for the context and rationale of policies and positions.
- Keep a record of questions and comments which arise during discussions – refer these to unit officers.
- Always provide a forum for all opinions – the Association is a democratic forum.
- Avoid personal or value judgements regarding policies and positions.

## Part 2

# Role of the Association Representative in Collective Bargaining

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Since Collective Bargaining is one of the most important functions of the Association, it then follows that the Association Representative's role in the collective bargaining cycle is most important.

The cycle of collective bargaining is outlined below:

1. Proposal Development	before expiring
2. Finalize Proposal	before bargaining
3. Negotiations	before expiry until conclusion
4. Potential for Impasse*	before expiry until conciliation
5. Conciliation	before strike
6. "No Board" report	after conciliation
7. Strike Vote	30 days before expiry or later
8. Sanction	after expiry and at least 17 days past the "no board"
9. Settlement	tentative agreement
10. Ratification	
11. Working with a Settled Contract	

\* May go to 9 without 4, 5, 6, 7 or 8

Please note: The 2007-2008 school year is the beginning of the cycle

### **1. PROPOSAL DEVELOPMENT TOWARD 2008-2010 CONTRACT RENEWAL**

In the early stages of proposal development, the Association Representative must bring all their collected complaints, comments and issues that can be corrected or improved upon through the contract, to the attention of the local Collective Bargaining Committee (CBC).

## 2. FINALIZE PROPOSAL

Association Representatives will likely attend a number of meetings which contribute to the development of the proposal. The final approval mechanism may be a vote of the general membership or a representative vote.

## 3. NEGOTIATIONS

- in some units, current Association Representatives sit on the local CBC
- in some units, former Association Representatives also sit on the local CBC
- two-way communications are important: ongoing reports to the membership as well as the membership having their questions answered and concerns directed to the unit leadership
- you need to engage the membership to provide and gain information regarding current demands to have power in negotiations
- actual negotiations information, directly from the local CBC, should be the only reliable source despite constant demands and rumours

## 4. IMPASSE

Issues at the impasse should be made available to Association Representatives. Be sure that the unit has identified the issues for you. Assess support and pass along the good news or bad news.

## 5. CONCILIATION

Familiarize your membership with the cycle of bargaining in the *Ontario Labour Relations Act*, which is outlined here (1-10). Conciliation is necessary as a first step to advance the process. It may or may not lead to a sanction.

## 6. STRIKE VOTE

- include all members on lists at your school/worksite
- detail who is on leave for pregnancy, parenting, deferred salary and all other leaves
- include all the part-time teachers and their respective percentage of work assignment – all dues paying members can vote
- identify long-term occasional teachers – they vote on the Occasional Teacher contract, not the Elementary or Secondary

**7. SANCTION**

- you will likely be a picket captain
- be aware of all members' activities
- identify and record members fulfilling duties for strike pay
- identify and record any strike breakers
- assess if the members need more information
- inform the Unit President or strike committee contact on how well it is going
- identify safety concerns for pickets
- identify and report morale issues to unit leaders

**8. SETTLEMENT**

- make sure every member has the tentative agreement in summary or full form
- review and discuss the tentative agreement amongst members at your school/site
- advise the Executive regarding membership responses
- assess if the Unit President should visit your school

**9. RATIFICATION**

- identify polling procedures and locations for all members
- ensure that school lists are accurate
- the representative may speak to support or critique the settlement
- the representative may speak for the school
- the representative may help to give dissenters a clear voice
- let the Unit President know the representatives' disposition

**10. WORKING WITH A SETTLED CONTRACT**

- ongoing contract maintenance is very important
- begin to collect issues for next round
- continue to identify grievances and future contract improvements for the unit

## Part 3

# Assisting Members at Meetings

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From time to time the Association Representative may be asked to attend a meeting with a colleague. The meeting could be with a principal or vice-principal and the role of the Association Representative would be that of a witness/recorder. **If the meeting is scheduled with a superintendent and/or outside agency, or the member has been notified that the meeting could be disciplinary in nature, the Unit President is to be notified immediately! The Association Representative may advise the member not to attend a meeting until the President is able to attend.**

The following points are presented as an assistance for the Association Representative in facilitating the meeting process and clarifying issues.

### 1. QUESTIONS TO BE ASKED OF THE MEMBER

- Have you been advised of the purpose of the meeting?
- Has the meeting been scheduled within reasonable time limits?
- Is the principal/vice-principal aware that the Association Representative will be attending?
- Has there been any reporting to, or involvement of, outside agencies?

### 2. POSSIBLE ACTIONS DEPENDENT UPON THE PURPOSE OF THE MEETING

<b>Purpose</b>	<b>Association Representative actions</b>
General 'in' school concerns: supervision, attendance, timetables, interpersonal etc.	Attend and take notes
Parent concern	Attend and take notes
Illness or stress	Attend and take notes
Contractual issues: leaves, transfer, surplus declaration, staffing etc.	Attend and take notes. Have a copy of the relevant document available: Agreement, Procedure
Teaching performance	Contact the Unit President for advice/action

Disciplinary action	Contact the Unit President for advice/action
Allegations of inappropriate conduct	Contact the Unit President for advice/action
Denomination issues	Contact the Unit President for advice/action
Meeting with superintendent/Director	Contact the Unit President for advice/action
Meeting with supervisor and parent	Contact the Unit President for advice/action
Meeting with any outside agency about conduct	Contact the Unit President for advice/action

The Association Representative may be asked to attend the meeting with the member after the Unit President has been contacted. If this occurs, the Association Representative should make inquiries if there are any specific directions regarding additional questions or concerns to be addressed. Once again, the Association Representative's prime role is to act as a witness and note taker at the meeting.

Whenever a member is informed of the involvement of outside agencies, such as the Police and/or Children's Aid Society, the unit office should be contacted immediately. If a member is directed by a principal/supervisor to attend such a meeting without representation, no statements are to be made and the Unit President is to be contacted immediately. Members may need to be reminded of their rights from time to time. No one should be forced to attend any meeting without representation if he/she feels representation is required.

Before a meeting, members should also attempt to determine the agenda or purpose, especially with parents and/or guardians. If such meetings become confrontational, aggressive or threatening, the member has the right to end the meeting immediately.

The basis for the above suggestions and following "hints" have been developed upon submission of various unit documents addressing the changing role of the Association Representatives. The Association is grateful to local units for their efforts and sharing of information.

### **3. HINTS FOR ASSISTING MEMBERS AT MEETINGS**

The traditional role of Association Representative is now enhanced under the *Ontario Labour Relations Act*. The individual Association Representatives in each work site will now be asked to perform specific functions by the Provincial Office and the local bargaining unit.

The following information is presented as a guide to further assist the Association Representatives in the performance of their duties when asked to assist a member at a meeting with their supervisor.

1. The member always has the right to ask the nature of the meeting.
2. The member has the right to OECTA representation at meetings, if he or she deems necessary.

#### **Step 1 – Call of the meeting**

If a colleague approaches the Association Representative to request attendance at a meeting with the principal or supervisor, the Representative should consult “Assisting Members at Meetings” – Sections 1 and 2 above – for suggested questions and actions. The Association Representative should ensure that the member has notified the principal that the Association Representative will be attending the meeting. If the principal or supervisor attempts to block the attendance of the Association Representative, or if it would be more appropriate for the president to attend, the unit president should be contacted immediately.

#### **Step 2 – Preparation for the meeting**

Discussion between the member and the Association Representative on the role of the Representative at the meeting is necessary prior to any meeting. In many cases, the OECTA members are best advised to listen and gain information without responding in the meeting.

#### **Step 3 – The meeting**

At the beginning of the meeting, the Association Representative should indicate his or her function at the meeting. The Representative will provide the member with a summary and a copy of any notes, which may also be filed with the unit office if necessary.

The principal/supervisor should be expected to outline the purpose and structure of the meeting. The OECTA members may feel the need for a break/caucus during the meeting. If so, a time limit could be identified for the resumption of the meeting.

The member should also be able to ask to end the meeting and resume at another time mutually agreeable to the parties. If possible, reasons for the adjournment should be given and specific agenda items for the subsequent meeting discussed.

Notes taken should be specific to the issues as outlined, actions being contemplated by the principal and possible outcomes.

The principal/supervisor may conclude the meeting with a summary of ideas and/or actions. Make sure that notes reflect this summary and direction.

The member should always feel free to ask questions seeking clarification. If necessary, you may ask for a clarification from the principal/supervisor for the purpose of note accuracy. The Association Representative should ask for all documents to be disclosed to the member, and the unit office, to protect privacy and promote consistent practices across the board.

#### **Step 4 – Following the meeting**

The member and Association Representative should meet to summarize the meeting and decide on further actions or meetings. If there has not been previous contact with the Unit President up until this time, it will be necessary to make the contact now.

Following this “debriefing,” the Association Representative should prepare the copy of the notes and summary for the member. The notes should be dated and signed by both parties after they have been reviewed.

Association Representatives are reminded of the confidentiality of these matters. The Association Representative should ensure that the member is aware of the importance of confidentiality. General staff discussion of meetings, issues and outcomes is not to be undertaken. If issues are presented that will have ramifications for other staff members, or perhaps the entire staff, the Unit President must be apprised of these issues.

In all cases, the Association Representative should discuss the involvement of the unit officers in the matter.

**IN CONCLUSION**

All members do have the right to representation. The Unit President can act as a resource if a question arises regarding attendance at meetings. It is important that a record be kept of all meetings, even if the member feels there is no need for representation and attends on his/her own. The Unit President should be aware of all such meetings.

There are many instances where a Unit President or an Association Representative may meet with a principal to review a specific policy or contract matter, which does not bear directly on a single member. Any such meeting should be an option which has been reviewed and accepted by both the unit office and the Association Representative at the school.

## Part 4

# The Duty of Fair Representation (DFR)

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### **BASIC PRINCIPLES**

Canadian jurisdictions have legislation requiring unions to fairly represent their members with the exception of Nova Scotia, New Brunswick, PEI and the Territories. This is known as the Duty of Fair Representation (DFR).

In general terms such legislation mandates that unions not act in an arbitrary or discriminatory manner, or in bad faith towards a bargaining unit member.

In Ontario, as in most jurisdictions, the authority to deal with complaints rests with the Labour Board under the *Ontario Labour Relations Act* (OLRA). The Labour Board has broad discretion in dealing with complaints and has developed policies and practices that have general application.

### **ESSENTIAL ELEMENTS**

In Ontario, the Duty of Fair Representation legislation applies to the negotiation and administration of the Collective Agreement and thus involves the handling of grievance to a major extent. The following clarifications are provided in general terms as a framework for the understanding of grievances and DFR:

#### **WHAT IS “ARBITRARY”?**

Behaviour that may be found arbitrary includes actions such as:

- abrupt, inconsiderate, indifferent and insensitive treatment of a grievor
- failure to investigate or superficial, perfunctory investigation of a grievance
- processing a grievance in a manner that shows reckless disregard for the interests of the grievor
- failure to inform and consult during stages of negotiations toward resolving a dispute.

#### **WHAT IS “DISCRIMINATORY”?**

Treating individuals or groups differently from others, if there is no valid labour relations reason for doing so may be found to be discriminatory. The union must be able to show that it has sound objective reasons for making the distinction in question.

**WHAT IS “BAD FAITH”?**

“Bad Faith” towards an individual or group involves a frame of mind which is hostile or malicious. If the complainant can show a history of personal hostility, a desire for political revenge, lack of fairness, intentional deception or dishonesty, there may be a finding of “bad faith.”

As with “arbitrary” behaviour, honest mistakes or errors of judgement do not qualify as evidence of “bad faith” towards members.

**DFR RESPONSIBILITIES OF ASSOCIATION REPRESENTATIVE**

As the “bargaining agent” in the workplace, OECTA has a legal responsibility to represent all members of the “local bargaining unit.” This responsibility is extended to the Association Representative, as a requirement to represent each member without discrimination, in good faith and without being arbitrary. (See Section 74 of the OLRA). The failure to meet with the requirements of the OLRA may result in a complaint to the Ontario Labour Relations Board.

In addition to the key responsibilities outlined in Section 74 of the OLRA, there is a responsibility for the Association Representative to present the views of OECTA. A failure in this regard may result in some form of discipline or corrective measure by the Association.

The Association is a provincial body which includes local executives and representatives in all workplaces. All three levels work cooperatively to implement provincial policies, and to fairly represent all members. The provincial Association is ultimately responsible for all complaints to the Ontario Labour Relations Board, regarding fair representation.

**DFR GUIDELINES FOR THE ASSOCIATION REPRESENTATIVE**

If an Association Representative is to “not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees in the unit,” a cautious approach is required. Here are some suggestions:

- All staff are equal – don’t pick favourites
- Put yourself in the complainant’s role
- Tell the complainant all he or she should know
- Listen and be patient
- Advocate, don’t arbitrate

- Always consult with Association Officers – immediately
- Ask about current and related Association policy development
- Always be timely – meet today, don't delay
- Maintain a journal of Association Representative Activity

### **GRIEVANCE HANDLING**

The bargaining agent has the final decision in whether or not to take an action or omission to grievance. Once in the process the bargaining agent also has the ability to determine whether or not the matter should go to arbitration. The unit acts under the authority of the bargaining agent and must look at the member's situation and consider his/her interests in the light of the other members of the bargaining unit. The unit must arrive at its decision through a fair process that is based on labour practices and relations considerations.

Unless the collective agreement provides, a member cannot go to arbitration without the Union's approval. The Union is party to the collective agreement and it is the Union which has ownership of the grievance and the final say over settlement or the access to arbitration.

There is no requirement that the grievor must consent to a settlement. As a matter of practice though, the Union should advise the grievor of the terms of a proposed settlement and permit the grievor to give his or her views on it. The final decision on settlement does however, rest with the Union.

## Part 5

# School Council Teacher Representative

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The Association Representative is often also a member of the School Council. Due to workload, another Association member might be the teacher representative on the School Council. In either case, there are certain factors to bear in mind when serving in this capacity.

- Parents should expect the Association Representative to be a good source of alternative information.
- Certain norms of behaviour and statements regarding staff are expected in public meetings.
- Fellow staff members expect the Association Representatives to have an in-depth knowledge of their rights, of the collective agreement, and of the various ways in which School Councils can be informed and influenced.

### **SCHOOL COUNCILS**

School Councils became mandatory in 1997 for publicly-funded elementary and secondary schools. The operation of School Councils and the role of the principal with respect to School Councils have been defined in some detail by Regulations to the *Education Act*.

### **COMPOSITION AND MANDATE**

Elementary school councils are made up of the following:

- Parents
- The principal (or vice-principal as the designate)
- A teacher representative elected by teachers
- A non-teaching representative elected by non-teaching staff
- A representative of the home and school association if one exists in the school
- At least one community member appointed by the other council members
- Sometimes a member of the parish

The range of issues that School Councils deal with is varied. The principal must consult with the School Council on the code of conduct for persons in the school, the student dress code and school action plans in response to EQAO test results. School boards must consider the views of School Councils when establishing policies and guidelines on student discipline, promotion of student safety, access to school premises, student suspensions and expulsions.

The Regulations do not limit the issues upon which School Councils may make recommendations to the school board or the school. For this reason, it is extremely important that the teacher representative to the School Council is well informed.

### **THE ROLE OF THE ASSOCIATION**

OECTA views School Councils as an ideal form of parental involvement and a contact opportunity for parents, teachers and other staff to work together to support students.

The role of School Councils has been the subject of intense political debate as a vocal minority of parents pressed for School Councils to have decision-making powers. After various forms of consultation, the government decided to reaffirm School Councils' advisory role.

Fellow teachers elect the teacher representative to a particular school's council. This individual may or may not also be the Association Representative. The primary role of teacher representatives on School Councils is to represent the views and concerns of their colleagues regarding matters under consideration by the School Council.

There are limits to what School Councils should be addressing. School Councils should not discuss personnel matters or refer to a specific teacher or other school employee. School Councils should not be engaging in discussions related to employment matters or collective agreements. If a discussion at a School Council meeting strays into an area that is inappropriate, the principal should intervene. Otherwise you are within your rights, as a teacher Association Representative, to point out the problem.

**TEACHER REPRESENTATIVES ON SCHOOL COUNCILS WHO ARE NOT ASSOCIATION REPRESENTATIVES**

Should the teacher representative to the School Council not be the Association Representative, it is important for the two teachers to work closely with one another to ensure there is communication about Association issues and issues raised by School Council members that may be of interest to the Association. The representative should have a clear understanding of the role, and the limits, of the School Council and should intervene if the School Council's deliberations take an inappropriate turn.

The following are some general tips for teacher representatives to School Councils:

- develop a positive working relationship with the School Council chair and other members of the council wherever possible. These community based forums are ideal to bring forth issues and discussion topics of a different nature than the adversarial collective bargaining forum at the board level.
- repackage OECTA issues for School Councils. For example, teacher performance appraisal is an irritant for teachers that may have general acceptance among many school council members. Indeed, School Councils may support the intent of the legislation without reservation. In this instance, the bureaucratic load imposed on schools that will detract from the teaching activity should be emphasized. OECTA and School Councils share the goal of high professional standards. OECTA and School Councils share the goal of quality education. OECTA and School Councils may share a distaste for bureaucratic downloads and the needless bureaucracy which flows from teacher performance appraisal.
- request time on the School Council meeting agendas to bring forward issues identified by the teaching staff
- request time on staff meeting agendas to report on School Council meetings with respect to how the deliberations might affect teaching staff
- keep in regular contact with the Association Representative (if not on the School Council) to determine if there are Association issues that should be brought to the School Council
- report any concerns regarding the activities of the School Council to the Association Representative and, when necessary, to the Unit President

# CHAPTER 2

## PROVINCIAL SECTIONS

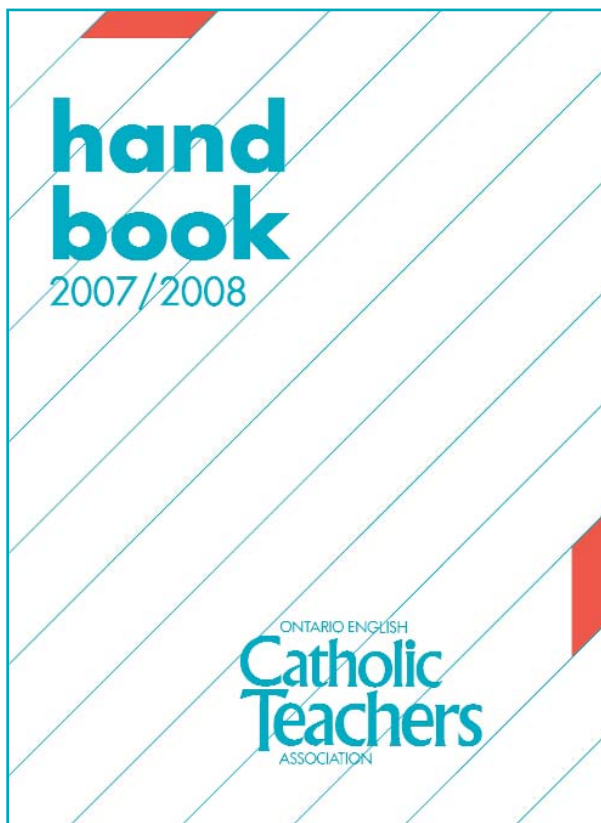
### Part 1

## Provincial Handbook

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The OECTA Handbook contains the constitution, by-laws, policies, procedures and action directives of the Association, as voted by members at the annual general meeting.

[Click here for the 2007-08 edition.](#)



# Part 2

## Provincial Committee Application Form

The application form is posted on OECTA's website in February.



**STANDING AND OTHER COMMITTEES**  
 Awards  
 Beginning Teachers  
 Catholic Education  
 Collective Bargaining  
 Communications and Public Relations  
 Educational Aid  
 Elementary Schools  
 Finance  
 Health and Safety  
 Human Rights  
 Legislation  
 Occasional Teachers  
 Political Advisory  
 Professional Development  
 Steering  
 Program and Structures  
 QECO Council  
 Status of Women  
 Secondary Schools

**DUTIES**  
 To study and report on such matters as may be a) referred to it by the annual general meeting, the council of presidents or the provincial executive; b) undertaken by it with the approval of the annual general meeting, the council of presidents or the provincial executive; c) pertinent to it and introduced by one of its members.

**ADDITIONAL INFORMATION**  
 Information may be found in the Handbook 2006-2007 on pages 15, 18, 19, 20, 21, 63-66.

**APPOINTMENTS**  
 The Provincial Executive will make decisions for committee appointments to take effect July 1, 2007. All applicants will be informed of the status of their application.

Ontario English Catholic Teachers' Association

### Join a provincial committee

*Are you a knowledgeable, interested and committed member of your association? Please complete and return this application by May 1, 2007. Present committee members seeking reappointment are asked to reapply.*

### Committee service application

**NAME** \_\_\_\_\_ **M/F** \_\_\_\_\_

**HOME ADDRESS** \_\_\_\_\_

**POSTAL CODE** \_\_\_\_\_ **PHONE** \_\_\_\_\_

**SCHOOL NAME** \_\_\_\_\_

**SCHOOL ADDRESS** \_\_\_\_\_

**POSTAL CODE** \_\_\_\_\_ **PHONE** \_\_\_\_\_

**OECTA UNIT** \_\_\_\_\_

**TEACHING EXPERIENCE**  
 1-5 Years     6-10 Years     16+ Years

**PRESIDENT POSITION** \_\_\_\_\_

**SUBJECT** \_\_\_\_\_ **GRADES** \_\_\_\_\_

**OTHER/RELATED ACTIVITIES, EXPERIENCE**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**WHY I WANT TO SERVE**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**UNIT INVOLVEMENT**  
 COMMITTEE/ACTIVITY/POSITION/DATES  
 \_\_\_\_\_  
 \_\_\_\_\_

**PROVINCIAL INVOLVEMENT**  
 COMMITTEE/ACTIVITY/POSITION/DATES  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**COMMITTEE PREFERENCES**  
 IN ORDER OF CHOICE

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

Please complete and return this application form by **May 1, 2007** to: Committee Application, OECTA, 65 St. Clair Ave. E., Toronto, ON M4T 2Y8 Fax 416-925-7764

# Part 3

## Government and Regulations

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- Acts and Regulations
- EQAO

### **ACTS AND REGULATIONS**

The following are some Acts and Regulations that a teacher may need to reference in dealing with daily activity. These may be found in the school, or online.

Your local unit office would also have copies of these resources. The references under the title are to give direction to teachers for some of the more common areas that might be requested.

#### ***Education Act, 1990***

Section 1	Definitions
Section 170.1	Class size
Section 170.2	Teaching time
Section 264	Duties of teacher
Section 265	Duties of principal
Section 266	Pupil records
Section 277	Teachers’ collective bargaining – including Performance Appraisal
Section 301	Provincial code of conduct
Section 302-03	Local policies, guidelines and codes of conduct
Section 306	Mandatory suspension of a pupil
Section 307	Discretionary suspension of a pupil

**Regulations made under the *Education Act***

Regulation 106/01	Suspension of a Pupil
Regulation 37/01	Expulsion of a Pupil
Regulation 251	Collection of Personal Information (Criminal Check)
Regulation 285	Continuing Education
Regulation 298	Operation of Schools (General)
Section 3	Daily Sessions
Section 3.5	Lunch Period
Section 11	Duties of Principals
Section 12	Vice-Principals
Section 14	Teachers in Charge of Organizational Units
Section 19	Qualifications of Teachers
Section 20	Duties of Teachers
Regulation 304	School Year Calendar
Regulation 399/00	Class Size
Section 1	Elementary School Classes
Section 3	Secondary School Classes
Section 7	Reporting
Regulation 181/98	Identification and Placement of Exceptional Pupils
Regulation 96/07	Teacher Performance Appraisal
Regulation 97/07	Annual Learning Plans

**Regulations made under the *College of Teachers Act***

Regulation 184/97	Teacher Qualifications
Regulation 276/97	Discipline
Regulation 237/97	Professional Misconduct

***Labour Relations Act, 1995***

Section 1	Definitions
Section 18	Negotiations
Section 45	Content of Collective Agreements
Section 48	Arbitration
Section 49	Single Arbitrator
Section 58	Term of Collective Agreement
Section 70	Unfair Practices
Section 74	Duty of Fair Representation
Section 86	Working Conditions

***Employment Standards Act***

Part XI	Pregnancy and Parental Leave
Part XIV	Termination of Employment

***Pay Equity Act***

Part II	Public Sector
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***Human Rights Code***

Part I	Freedom from Discrimination
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***Workers Safety and Insurance Act***

Part III	Insurance Plan
Section 21	Notice of Accident and Claim for Benefits
Part V	Return to Work

***Occupational Health and Safety Act***

Section 9	Joint Committee
Part V	Right to Refuse Work

***Teachers Pension Act***

## Schedule 1

Part II	Participation
Part III	Contributions
Part V	Retirement Pensions
Part VI	Disability Pensions
Part VII	Benefits Upon Death
Part VIII	Benefits and Payments – General
Part IX	Purchase of Credit

**EDUCATION QUALITY AND ACCOUNTABILITY OFFICE**

The Education Quality and Accountability Office (EQAO) is an agency of government established by a legislative Act of the same name in 1996. According to their website, EQAO will ensure greater accountability and contribute to the enhancement of the quality of education in Ontario. This will be done through assessments and reviews based on objective, reliable and relevant information, and the timely public release of that information along with recommendations for system improvement.

EQAO's annual assessment schedule currently includes these assessments:

- Grade 3 and Grade 6 Reading, Writing and Mathematics
- Grade 9 Mathematics, Applied and Academic
- Grade 10 Literacy

Results of these assessments are reported annually by student, school, and board as well as for the province as a whole. The government also requires schools and boards to set targets for improving their results and to develop action plans to reach those targets annually.

In addition to the student assessment results, EQAO collects and publishes other information on the educational system in its Education Quality Indicators Program (EQUIP). The EQUIP reports include information on demographics and on factors affecting school quality and effectiveness such as staffing, facilities, safety, spending, community relations, and school leadership.

Finally, EQAO also coordinates and reports on Ontario's participation in many national and international assessments such as SAIP, TIMSS and PISA.

The *Education Quality and Accountability Act* gives the Minister of Education wide powers to set directives and policies for the agency and equally wide powers to the agency to require boards to administer tests, report on their results and provide information to the Office.

Teachers should know that they are required by law to:

- Administer tests
- Complete and abide by confidentiality agreements
- Complete questionnaires

Teachers should be especially cautious in dealing with EQAO, the agency's test materials and procedures. They are advised to read all manuals thoroughly and follow test procedures closely. They should be clear on the roles they are expected to play and the roles their principals are expected to play in the process as they are set out in the administrative manuals for the tests.

Teachers should contact their local unit offices immediately if:

- They do not receive copies of administrative manuals and training materials
- EQAO withholds their students' results and/or
- EQAO or their principal charges them with not administering the test properly

# CHAPTER 3

## COLLECTIVE BARGAINING

### Part 1

## Freedom of Information

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The *Municipal Freedom of Information and Protection of Privacy Act* became effective on January 1, 1991.

The purpose of the Act is:

1. to provide a right of access to information under the control of institutions; and
2. to protect the privacy of individuals with respect to personal information about themselves.

In the first case, the Act refers to the right of access to existing records in the custody or control of the school board and the term “information” includes any record of information. As a result, this Act has particular impact with regard to students’ records and their personal information. The Act is very specific about how you collect, use, access, disclose and retain personal information.

“Personal Information” is defined as recorded information about an identifiable individual. With very limited and specific exceptions personal information must be collected directly from the individual. All personal information in the control of the school board must be protected from unauthorized use or disclosure.

This information should only be used for the purpose it was collected and should only be used by authorized staff on a “need to know” basis for the completion of their job.

Certain individuals, students and their parents/guardians have the right to access their own personal information and also the right to request correction if necessary. Students must be 18 years of age to access their own information.

Members should always use professional, objective and factual language. Keep in mind that interview notes, progress reports and observation notes should relate to the student, the program and the student's progress.

Personal information may be disclosed within the system to authorized staff required to have the information for completion of their assigned duties. Always use care when transmitting this information to other staff members.

Records are to be maintained for a reasonable period of time and when disposing of records they should be shredded.

**NOTE:** A copy of the *Ontario School Record Guideline – 1989* should be in all schools. This guideline is used by all school boards as directed by the Ministry of Education.

## Part 2

# Qualifications Evaluation Council of Ontario

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The Qualifications Evaluation Council of Ontario (QECO) is a cooperative project of three of the teacher affiliates of the Ontario Teachers' Federation. The Association des enseignantes et des enseignants franco ontariens, Elementary Teachers' Federation of Ontario and the Ontario English Catholic Teachers' Association.

Assessment of teacher qualifications for salary purposes is the prime responsibility of QECO. Members are placed in categories according to their academic and professional qualifications. In addition, information on future upgrading is available upon written request. Members are encouraged to seek upgrading information on a regular basis to confirm the best available path for category advancement.

Teachers are placed in their respective category after application to QECO. The evaluation process usually takes a minimum of six weeks for processing. Local agreements with school boards determine the program of evaluation to be used. Currently teachers receive evaluations in Program 5. Check your local collective agreement for specific QECO references.

The process of evaluation of qualifications is complex. As such, members are reminded to contact the Evaluations office directly for placement and upgrading information. Similar courses of study can and do result in varying placements and all placements must be validated by QECO.

It is the responsibility of each affiliate and the local units to negotiate the inclusion of this process of category evaluation in their respective collective agreements.

Membership in one of the three Affiliates is a requirement for evaluation by QECO. Student teachers may also seek a "Student" letter of evaluation and guidelines for this process are available on the web page or can be obtained directly from QECO.

Local bargaining units can provide specific information in relation to QECO references found in their Collective Agreement. Information, application forms and guides for Program 5 are available directly from QECO's website, [www.qeco.on.ca](http://www.qeco.on.ca).

## Part 3

# Provincial Funding Model

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Many questions about collective bargaining outcomes or proposals may be answered or informed by reference to the funding model. All Catholic District School Boards operate according to the annual model set out by the Ministry of Education.

The funding model distributes money to different grant allocation areas. Within these areas, the grants are further divided amongst a number of categories. Some of these categories are deemed to be "Classroom" expenditures and some as "Out of Classroom" expenditures. Boards have some restrictions in moving money to pay for "Out of Classroom" expenses.

The elementary and secondary foundation grant models that follow are the basis of most collective agreements. The model is set provincially, not locally. A local board may spend more in one area, but must finance from reserves or another expenditure area to do so.

**Elementary Student Foundation Grant 2007-2008<sup>1</sup>**

	# staff per 1000 students		Average salary + benefits	\$ per pupil for supplies and services	\$ allocation per pupil
Classroom Teacher Class Size 24.5:1	Classroom Teacher	40.82	64,301 + 11.1%		2,916
	Preparation Time	5.74	64,301 + 11.1%		410
	Supply Teacher			97	97
	Staff Dev.			11	11
Education Assistants		0.20	26,324 + 16%		6
Textbooks and Learning Materials				80	80
Classroom Supplies				82	82
Classroom Computers				46	46
Library and Guidance Services	Teacher Librarian	1.31	64,301 + 11.1%		93
	Guidance Teacher	0.20	64,301 + 11.1%		14
Professional/Para- professional Supports		1.33	50,907 + 14.8%		78
Classroom Consultants		0.48	88,516 + 11.1%		47
<b>Total Foundation Grant</b>		<b>50.8</b>		<b>\$316</b>	<b>\$3,880</b>

<sup>1</sup> updated information is available to reflect interim and permanent adjustments.

**Secondary Student Foundation Grant 2007-2008<sup>1</sup>**

	# staff per 1000 students		Average salary + benefits	\$ per pupil for supplies and services	\$ allocation per pupil
Classroom Teacher Class Size 21:1	Classroom Teacher	42.61	64,301 + 11.1%		3,044
Credit Load per Pupil 7.5	Student Success Teacher/Prep Time	15.15			1,082
	Supply Teacher			71	71
	Staff Dev.			12	12
	Department Head Allowances	9.00			41
Textbooks and Learning Materials				107	107
Classroom Supplies				187	187
Classroom Computers				60	60
Library and Guidance Services	Teacher Librarian	1.10	64,301 + 11.1%		79
	Guidance Teacher	2.60	64,301 + 11.1%		186
Professional/Para- professional Supports		2.10	50,907 + 14.8%		123
Classroom Consultants		0.54	88,516 + 11.1%		53
<b>Total Foundation Grant</b>		<b>64.10</b>		<b>\$437</b>	<b>\$5,045</b>

<sup>1</sup> updated information is available to reflect interim and permanent adjustments.

Funding for Primary class size reduction has increased to \$745 per Primary pupil.

Although the Regulations to the *Education Act* have not yet been amended to reflect any change from a 24 class size average in the Primary division, the Ministry will enforce a cap of 20 students in 90% of all Primary classes with the remaining 10% capped at 23 in the 2007-08 school year. School boards that demonstrate an inability to provide adequate accommodations for the additional classrooms needed to reduce Primary class size were able to apply to the Ministry for flexibility in reaching the class size cap.

The School Foundation Grant funds principals, vice-principals, school secretaries and school office supplies on a school-by-school basis. All schools with more than 50 students will now be funded for a full-time principal, and each school will receive funding for a full-time school secretary.

The government introduced another school-based grant for enhancing programs in the art, music, physical and outdoor education. School boards will receive \$7,500 per school in 2007-08 to purchase materials in these areas. Boards receive this money centrally and may or may not allocate it equitably amongst all schools.

Teacher salaries are further funded through a Qualifications and Experience Allocation, which increases or decreases a school board's funding for teacher salaries based on their experience and qualifications as compared to a benchmark salary grid. The maximum salary of this grid is \$83,476 after ten years at the highest qualifications category.

School boards receive additional grants in a variety of demographic and program-based envelopes. For example, small and isolated schools with 50 or more students will receive the necessary funding to ensure minimum staffing levels through a new Supported Schools component of the Geographic Circumstances Grant. An elementary school of 50 or more students that is more than 30 km away from another elementary school in the same board will receive top-up funding for a minimum of 7.5 teachers. A secondary school of 50 or more students that is more than 60 km away from another secondary school in the same board will receive top-up funding for a minimum of 14 teachers.

The Ministry of Education website contains the complete technical paper describing the funding model at [www.edu.gov.on.ca/eng/funding/0708/index.html](http://www.edu.gov.on.ca/eng/funding/0708/index.html). This site also contains projections for all school boards for the 2007-08 school year. School boards use this information, along with lengthy spreadsheets to produce Estimates to the Ministry of Education as early as June preceding the school year. These Estimates are updated in November. The Estimates break down each area of the funding model in detail for a particular school board or school authority. School boards are required to make their audited financial statements available to the public, and this information is usually available on the school board website. The Ministry will also release memoranda throughout the school year with updates to the funding model. The Provincial Office of OECTA monitors these memoranda year-round and informs units on a regular basis regarding any changes that may have an impact on its members.

## Part 4

# Criminal Records Checks and Offence Declarations

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The *Safe Schools Act*, June 2000, and Regulation 521/01 filed in December 2001, give the government sweeping authority to collect certain kinds of personal information about school board employees. It is important to distinguish between the two kinds of information which will be required. The relevant definitions, as set forth in the Regulation, are as follows:

**“Criminal background check”** means a document prepared by a police force from data on the Canadian Police Information Centre (CPIC) database within the previous six months and that contains information on an individual’s personal criminal history. In other words, this is a document prepared by the police about the teacher. **“Personal criminal history”** means information on criminal offences for which an individual has been convicted under the Criminal Code and for which a pardon has not been granted.

**“Offence declaration”** means a written declaration signed by an individual, which lists all of her or his convictions for offences under the Criminal Code for which a pardon has not been granted up to the date of the declaration. An offence declaration is a school board form completed by the individual teacher each year. Reviewing the declaration forms and the school level process is a Unit office responsibility.

### REPORTING REQUIREMENTS

The Regulation requires that all teachers are subject to an initial criminal background check and, thereafter, yearly offence declarations. The law places the onus for collecting such information on the employing school board.

### NEW EMPLOYEES

A school board must collect criminal background checks from all new employees who are hired after March 31, 2002. This information must be collected before employment commences. Subsequently, the school board is required to collect an offence declaration from these employees on an annual basis. New employees may have already obtained the necessary criminal background checks in making application to the Ontario College of Teachers.

**EXISTING EMPLOYEES**

All boards and school authorities have complied with Regulation 521/01 by collecting a criminal background check from all existing employees who became members of the College of Teachers before December 31, 1998. Commencing September 1, 2004, the school board must collect an annual offence declaration from all employees.

**EXCEPTION**

Employees who became members of the College after December 31, 1998 and who commenced employment before April 1, 2002 are not required to provide a criminal background check, but are required to provide an offence declaration by September 1, 2002 and each year thereafter. This exception is in place because of previously existing requirements with respect to police checks for newer members of the College.

**TRANSFERS BETWEEN SCHOOLS AND SCHOOL BOARDS**

School boards must collect offence declarations from teachers who transfer to a different school or different school board after March 31, 2002. Occasional teachers are deemed to be centrally dispatched board employees and are not affected by multiple-school issues for offence declarations, but are required to annually complete offence declarations.

**GOVERNING PRINCIPLES FOR OECTA REPRESENTATIVES  
RE: OFFENCE DECLARATION**

- (a) Teachers will only be required to submit an offence declaration upon transferring to another school or changing boards beginning April 1, 2002, or a full twelve months after the date of submission of the initial criminal background check.
- (b) Teachers required to submit an offence declaration due to transfer to another school or changing boards beginning April 1, 2002, and who have submitted an offence declaration to the board, are not required to submit a CPIC until July 31, 2003 and shall suffer no hindrance of transfer due to the absence of CPIC.
- (c) Offence declarations will only involve the teacher and the director or designate. Privacy must be assured by minimum access to the CPIC, the offence declarations and all related material. Minimum means the teacher and the director or one designate. All forms and communications shall only involve the teacher and the director or the one designate. There shall be no third parties or witnesses. The teacher retains the right to involve the Association. Since there is sensitive personal information at stake, however, the system cannot simply by-pass the employee concerned.

**THE ONTARIO EDUCATIONAL SERVICES CORPORATION**

The Ontario Educational Services Corporation (OESC) was a consortium created to assist in the implementation of Regulation 521/01. The OESC developed protocol models to assist their member school boards to fulfill their responsibilities under the law.

**PROTECTION OF MEMBERS**

All local OECTA negotiators received the OECTA Collective Bargaining Model Agreement Articles that deal with this topic. In its communications with school boards and trustees, OECTA has sent its official position of implementation guidelines detailed above.

Local negotiators must adhere to these guidelines to secure approval from the Provincial Office. Collective agreements that incorporate these guidelines have now been settled thus ensuring the protection of all members.

**PARDONS UNDER THE *CRIMINAL RECORDS ACT***

Information on a teacher's "personal criminal history" does not include convictions for which a pardon has been granted. When a pardon is granted under the *Criminal Records Act*, federal agencies that have records of convictions must keep such records separately from other criminal records. The information is removed from the CPIC database.

The *Criminal Records Act* lists certain sexual offences for which, even if a pardon is obtained, the record of the offence will be kept separately, but the individual's name will still be flagged in the CPIC computer system.

A teacher who has a conviction under the Criminal Code may want to consider applying for a pardon. A transfer to another school board site prior to obtaining a pardon could trigger the need for an offence declaration, at which time the conviction would need to be disclosed. Members must be truthful in all declarations or there may be risks to job security.

Details on how to obtain a pardon may be found at the National Parole Board's website at: [www.npb-cnrc.gc.ca/pardons/servic\\_e.htm](http://www.npb-cnrc.gc.ca/pardons/servic_e.htm) or at 1-800-874-2652.

## Part 5

# Performance Appraisal Procedures

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As an Association Representative there are two performance appraisal procedures to review:

- The Experienced Teacher Performance Appraisal (ETPA)  
ETPA PowerPoint presentation – [click here](#).
- New Teacher Induction Program (NTIP)  
NTIP PowerPoint presentation – [click here](#).
- Question and Answer Guide

### **EXPERIENCED TEACHER PERFORMANCE APPRAISAL**

Legal basis of TPA:

*Education Act* Sections 277.14-277.41

Regulation 96/07 and 97/07 – Teacher Performance Appraisal (TPA)

### **PRÉCIS OF THE REGULATION:**

1. Takes effect no later than September 1, 2007.
2. Requires Notice of Evaluation within 20 days in an evaluation year.
3. Requires mandatory performance ratings as: (1) Satisfactory (2) Unsatisfactory
4. Requires adherence to Ministry of Education Guidelines and policies and rules as may be established by the board.
5. Requires a pre-observation meeting, and completion of the pre-observation portion of the summative report.
6. Requires the teacher to complete an Annual Learning Plan (ALP)
7. The ALP is to be signed by the principal.
8. All part-time and seconded teachers are included.
9. There is one evaluation per cycle.
10. A cycle is 5 years such that there are 4 years where the teacher is not evaluated.

## **PERFORMANCE APPRAISALS**

Following extensive consultation involving all the teacher unions in Ontario, the Ministry of Education provided a new TPA model to be implemented no later than September 1, 2007.

## **EVALUATION CYCLES**

### **General**

Teachers are now subject to a five-year cycle for evaluation purposes. The first of those five years will be designated an “evaluation year.” During the other four years, the school board is not precluded from conducting additional evaluations but OECTA may review evaluations which are added without cause. In each evaluation year, the principal must conduct one evaluation.

### **Exceptions**

There are provisions in the Regulations for dealing with cases of teachers who are on leave, seconded, or teaching for only one semester. The intention of the regulation is clear – that teachers in some circumstances may defer but will not escape the scrutiny of the evaluation cycle imposed by the TPA.

### **Process**

The system is tied in with the requirements under Regulation 96/07 and 97/07 for “annual learning plans.” Beginning in September 2007, teachers must prepare, in consultation with their principals, annual learning plans which include the teacher’s professional growth objectives, a proposed action plan and timelines for achieving these objectives. If the year is designated as an evaluation year for the teacher, a meeting between the teacher and the principal is required.

In completing performance appraisals, principals will use the following two point overall ratings: Satisfactory, Unsatisfactory.

**UNSATISFACTORY RATING**

In OECTA's view, an unsatisfactory rating triggers an unnecessarily rapid and negative process.

The TPA must be conducted in a fair and growth-oriented manner. An unjust process is subject to the grievance procedure. Within 15 days, the principal must inform the teacher about the rating, discuss it with him or her, and come up with a written plan to improve performance.

Within 60 days, a second appraisal is conducted. Should a second unsatisfactory rating follow, the teacher is placed on "review status."

Within 120 days, a third appraisal would normally be conducted upon being placed on review status. However, the principal and supervisory officer have the discretion to dispense with the third appraisal and allow the second unsatisfactory one to stand if the delay would be "inconsistent with the protection of the best interest of the pupils."

Should the third appraisal be unsatisfactory, or should it not be conducted at all, a recommendation must be made to the school board to terminate the teacher's employment. The board is obligated to make a decision on the matter within 60 days of the recommendation, but in the interim the teacher is either suspended with pay or reassigned other duties. When a teacher is terminated, the school board is required to file a complaint against the teacher with the College of Teachers. If the board does not vote to terminate, the teacher may return to normal duties.

**TEACHER COMPETENCIES**

The *Education Act* and Regulations require the use of criteria known as "teacher competencies" in the evaluation process. They are as follows:

**COMMITMENT TO PUPILS AND PUPIL LEARNING****Teachers:**

- (a) demonstrate commitment to the well-being and development of all pupils
- (b) are dedicated in their efforts to teach and support pupil learning and achievement
- (c) treat all pupils equitably and with respect
- (d) provide an environment for learning that encourages pupils to be problem-solvers, decision-makers, life-long learners and contributing members of a changing society

**PROFESSIONAL KNOWLEDGE****Teachers:**

- (e) know their subject matter, the Ontario curriculum and education-related legislation
- (f) know a variety of effective teaching and assessment practices
- (g) know a variety of effective classroom management strategies
- (h) know how pupils learn and factors that influence pupil learning and achievement

**TEACHING PRACTICE****Teachers:**

- (i) use their professional knowledge and understanding of pupils, curriculum, legislation, teaching practices and classroom management strategies to promote the learning and achievement of their pupils
- (j) communicate effectively with pupils, parents and colleagues
- (k) conduct ongoing assessment of their pupils' progress, evaluate their achievement and report results to pupils and parents regularly
- (l) adapt and refine their teaching practices through continuous learning and reflection, using a variety of sources and resources, use appropriate technology in their teaching practices and related professional responsibilities

## **LEADERSHIP AND COMMUNITY**

### **Teachers:**

- (m) collaborate with other teachers and school colleagues to create and sustain learning communities in their classrooms and in their schools
- (n) work with other professionals, parents and members of the community to enhance pupil learning, pupil achievement and school programs

## **ONGOING PROFESSIONAL LEARNING**

### **Teachers:**

- (o) engage in ongoing professional learning and apply it to improve their teaching practices

**In addition, school boards may attempt to develop and add “competencies” or “look-fors” of their own. OECTA sees that the competencies and the “look-fors” provided within the *Education Act* and Regulations are sufficient. The *Education Act* at section 277.32 allows that boards “may” provide competencies that are additional. OECTA does not allow or approve of any additional competencies, look-fors or criteria for TPA.**

## **STUDENT AND PARENTAL INPUT**

A teacher is required to consider parent and student input in developing teaching strategies and in developing the ALP. The Ministry of Education will attempt to provide exemplary practices for teachers and principals to consider parent and student input in a manner consistent with the expectations of both the curriculum and the community.

## **PROTECTION OF MEMBERS**

### **Advice for Association Representatives**

This legislation, and particularly its Regulations, are quite new. The Ministry of Education through the regional offices is providing in-service of OECTA leaders and school board staff who participate on Board Resource Teams at the local level.

OECTA's Collective Bargaining Department has developed language and strategies for local bargaining units to table collective agreement provisions to obtain disclosure of which teachers will be evaluated each year, and the name and school location of any teacher who receives an unsatisfactory rating.

OECTA will continue to help to protect its members from arbitrary, discriminatory or unjust processes in TPA. Inappropriate evaluations, or those which fail to follow due process, can be grieved. With your local unit office, vigilance in monitoring the employer's implementation of the new system will be key to ensuring that it remains fair to teachers as a growth process.

Procedural fairness and just cause must be provided through the collective agreement and the bargaining of these employment matters. Performance appraisal is not a policy matter for the unilateral development by the employer. OECTA bargains all matters of employment with the employer, including TPA and the processes for Board Resource Teams to support local teacher development.

Association Representatives must distribute to members all communications coming from either the local unit office or the Provincial Office with respect to performance appraisals for teachers. The system has short and inflexible time lines. Association Representatives need to stress to members the need to move quickly in keeping the local unit office informed about any concerns about individual evaluations.

### **LOCAL NEGOTIATORS**

Performance appraisal should no longer be left exclusively to board policy, and board policy should not be changed unilaterally by the board when it deals with employment matters. OECTA has the legal right and responsibility to bring these matters to bargaining for resolution when cooperative implementation has failed or is incomplete.

Local collective agreements must be reviewed to make sure that evaluation procedures articles conform to the law. These articles must also enhance rights in areas of disclosure, timing, natural justice and restrictions on administration. Current local practices that are

favourable to the teacher should be maintained, such as reasonable periods of evaluation and between evaluations. Units must be fully aware of all documents relied upon at the board to limit the additional competencies, “look-fors” or other procedures which may be otherwise added under section 277.32.

### **LOCAL UNIT “LOOK-FORS”**

1. Principals should be restrained such that the timing or imposition of additional evaluation is within the scope of the protection afforded by the collective agreement.
2. Units must open a file for any member under “unsatisfactory performance appraisal” or “review status.”
3. Unit Presidents should be aware of all teachers who are in an evaluation year on a school by school basis.

**Please note:** The collective agreement provides the restraints and disclosures identified above.

### **GOVERNING PRINCIPLES FOR OECTA REPRESENTATIVES**

#### **RE: PERFORMANCE APPRAISAL PROCEDURES**

1. The Board and Association shall jointly agree to the performance appraisal policy and procedures.
2. The evaluation of a teacher shall be conducted according to the Acts and Regulations and in line with the exemplary practices identified by the Ministry of Education.
3. The scope of the evaluation excludes voluntary activity such as extra-curriculars.
4. No member of the bargaining unit shall participate in the evaluation of another member.

5. The purposes of the evaluation are:
  - (a) to affirm work well done
  - (b) to assist the teacher in the delivery of Program
  - (c) to provide for professional and career growth
  - (d) to identify strengths and areas for development
  
6. The performance appraisal shall provide for:
  - (a) a minimum five (5) days' notice to the teacher of the evaluation day and time
  - (b) a pre-conference with the teacher to mutually discuss criteria prior to the day of evaluation
  - (c) a post-conference within two (2) days with the teacher to discuss observations
  - (d) a teacher's request to be observed in other situations within the teacher's assignment
  - (e) a written report within two (2) days of the post-conference with a copy to the teacher
  - (f) 48 hours to review, sign, and make written comments regarding the report to the teacher
  - (g) full disclosure of any report from any source to the teacher within two (2) days of the issue or receipt by the board of such reports
  - (h) privacy for teachers in their appraisal years
  - (i) predominance of the Just Cause and Probation provisions of the Collective Agreement
  - (j) adequate resources and competent and trained appraisers for review and consultation throughout the appraisal cycle
  - (k) payment by the board of courses, in-service or materials recommended by the board which are not "job-embedded" in the school day
  - (l) exclusion of voluntary activity from the scope of the appraisal
  - (m) a maximum of one evaluation per evaluation year
  - (n) notice to the Association of any member under "unsatisfactory performance appraisal" or "review status"
  
7. The teacher shall have the right to an independent evaluator where there is a disagreement with respect to the evaluation.

## **NEW TEACHER INDUCTION PROGRAM OECTA CAN HELP**

### **What is the New Teacher Induction Program (NTIP)?**

The New Teacher Induction Program (NTIP) is a process developed by the Ministry of Education as a replacement for the Ontario Teacher Qualifying Test (OTQT) and is mandatory for all teachers new to the teaching profession in Ontario.

### **What is the purpose of NTIP?**

According to the Ministry of Education, NTIP is intended to provide a year of professional support in the workplace to complete Faculty of Education one-year certification programs and help beginning teachers to deliver curriculum. The Ministry hopes this will increase the retention rate for new teachers.

### **Who must participate in NTIP?**

All teachers who are permanently hired, as an elementary or secondary teacher, either full-time or part-time and who are newly graduated from an Ontario faculty of education are required to participate in NTIP. Teachers who are permanently hired as elementary or secondary teachers, either full-time or part-time and who hold teaching certificates issued by a jurisdiction outside Ontario must also participate.

### **Must new teachers complete NTIP?**

All new teachers must participate and successfully complete the program. NTIP is tied into the Teacher Performance Appraisal process which must be successfully completed twice in the first twelve months of teaching, or in an extended time if required. New teachers must participate and successfully complete all four parts of the program:

1. Orientation at the board level and at the school level
2. Ministry mandated staff development
3. Mentoring by an experienced teacher
4. Two Teacher Performance Appraisals during the first twelve months of teaching, or longer if required.

### **When are these events scheduled?**

1. Orientation occurs early in the school year and as required.
2. Staff development occurs at various times throughout the school year.
3. Mentoring takes place between the end of September and May.
4. Teacher Performance Appraisal occurs twice in the first 12-month period as a permanently hired elementary or secondary teacher, or longer if required.

**What is orientation?**

Boards will hold an orientation session that may include greetings from the Director of Education, board consultants, the president of the local OECTA unit and other personnel. They will talk about the board's vision and goals, policies and procedures, provide an orientation to the Ontario curriculum and context, and provide new teachers with board facts and figures such as school locations, student distribution or other relevant statistics.

Newcomers will also receive a school level orientation conducted by the principal at each school. New teachers will be given tour of the their schools, visit their classrooms, meet their OECTA Rep and the rest of the staff, and receive the materials and instructions about delivering curriculum to students.

**What staff development opportunities does NTIP provide?**

The Ministry of Education mandates that new teachers will have opportunities to learn about Classroom Management, Planning, Assessment and Evaluation, Communication with Parents, Students with Special Needs and implementation of the Ministry of Education documents, *Every Child*, *Student Success* and *Safe Schools*.

**What is mentoring?**

Mentoring is a process that helps beginning teachers make the transition to teaching by providing them with valuable encouragement and support from a trusted, experienced teacher who serves as a role model and counsellor. The mentoring agenda belongs to the new teacher or protégé. New teachers will be able to choose a mentor from the Mentor Roster. You may consult with other teachers and the principal for input on the selection.

**The mentor**

Mentors volunteer to assist new teachers entering the profession by providing support in various aspects of teaching, such as curriculum delivery, classroom management and reporting to parents. Effective mentoring is voluntary.

**The protégé**

The protégé chooses a mentor that most meets her/his needs. The protégé controls the entire NTIP process and drives the mentoring partnership. Protégés select a mentor from a Mentor Roster that contains names of all volunteers.

Once a mentor is selected and has agreed to work with the protégé, the protégé is responsible for ensuring that the principal is informed.

Mentors shall not take part in the evaluation of the protégé on NTIP and TPA, and have been cautioned not to do so by the OECTA unit and school board.

Each mentor has a confidential professional relationship with the protégé and does not discuss or share any information about the experience with a third party. If the partnership is not viable, it can be dissolved by either party without any consequences for either person. In such circumstance, the selection of a new mentor begins again. The protégé must inform the school principal that the partnership has ended and a new one has begun.

Mentoring activities include visits to each other's classes, meetings to discuss curriculum, explore reporting to parents, new Ministry of Education initiatives or other topics as directed by the protégé. Mentoring does not take place during either teacher's preparation and planning time. School boards receive funding to cover costs to assign Occasional Teachers to replace both mentors and protégés.

### **How is the NTIP process tracked?**

The New Teacher Induction Program Guideline includes a tracking sheet. This is a very important document. Each protégé must ensure that his/her tracking sheet is completed and also that her/his mentor completes appropriate parts of the form. This form will be given to the principal of the protégé's school when the process is complete.

### **How do NTIP and TPA fit together?**

All teachers undergo TPA in a repeating three-year cycle that begins in the first year of teaching. New teachers must achieve a satisfactory rating in both TPAs and also successfully complete NTIP.

### **What happens if I am not successful on NTIP or TPA?**

Teachers that receive unsuccessful evaluations may be required to repeat NTIP or go through another TPA year immediately. Teachers that receive unsuccessful ratings on either NTIP or TPA should immediately contact the local OECTA unit president for direction, because if not properly managed, an unsuccessful evaluation may have serious consequences.

### **Where can I find a complete set of NTIP and TPA documents?**

The local OECTA unit can provide a complete copy of all required documents and other material that will help you in your first years of teaching. These documents will be given to you at the New Teacher in-service session offered by local OECTA units.

## **WHAT YOU SHOULD KNOW ABOUT BEING A MENTOR**

### **What are the components of NTIP?**

- Orientation for new teachers by the board and the school
- Mandated staff development programs
- Mentoring by an experienced teacher
- Two successful Teacher Performance Appraisals, in the first twelve months, or longer if required

### **What is a mentor?**

A mentor is an experienced teacher who volunteers to help a new teacher enter the profession by providing support in various aspects of teaching, such as curriculum delivery, classroom management and reporting to parents, and issues as determined by the protégé. Being a mentor is a voluntary activity.

### **What is implied by the term "voluntary" in the mentoring process?**

A volunteer independently chooses to participate in NTIP. The voluntary nature means that it has no effect on negotiated working conditions and does not replace such duties as instruction or supervision.

### **Who can be a mentor?**

All experienced staff may volunteer to become part of the Roster of Mentors.

### **If I am selected as a mentor, will I be trained?**

Yes, your board, in consultation with your OECTA unit, should have established a mentor training program. The board has received funding from the Ministry of Education for this. Contact your unit about local arrangements.

### **If I volunteer, will I automatically become a mentor?**

The protégé chooses a mentor that meets her/his needs. The protégé controls the entire mentoring process. It is the protégé who determines and drives the mentoring partnership. The mentor will select from the Mentor Roster that contains names of all volunteers who meet the established criteria.

**What is a "Mentoring Partnership"?**

The mentor and the protégé voluntarily form a professional partnership that is confirmed with the principal of the protégé's school. If the partnership proves not to be viable for either party, the partnership is dissolved, without consequences for either person. After the protégé informs the school principal about the conclusion of the partnership a new selection process will begin.

**When will mentoring take place?**

Mentoring shall occur during the instructional day. The mentor and protégé may visit each other's classes, meet to discuss curriculum, explore reporting to parents, examine new Ministry of Education initiatives and other topics as directed by the protégé. School boards have access to funding to cover costs to assign Occasional Teachers to replace both mentors and protégés. Mentoring does not take place during preparation and planning time.

**Where will the mentoring take place?**

Ideally, the protégé and mentor will teach in the same school. This may not always be possible or practical, so accommodations may be needed to permit a mentor and protégé from different schools to work together.

**Does mentoring include evaluation of the protégé?**

Absolutely not! The mentor has no function in the evaluation for NTIP or Teacher Performance Appraisal of a protégé. The mentor shall not make a verbal or written evaluative report. The mentor shall not share any information regarding the performance of a protégé with another teacher or administrator, including the protégé's school principal. The non-evaluative, supportive nature of mentoring is essential to an effective mentoring relationship. Mentors are not evaluated in their role as mentors.

## **A QUESTION AND ANSWER GUIDE**

### **When should I expect my TPA?**

In a 5-year cycle, after 4 non-evaluation years (add 5 years to the last appraisal such that 2005-06 is 2010-11).

### **What should I expect during my appraisal?**

Beginning September 2007, principals are required to review teacher performance on a 5-year cycle. Current teachers are to be evaluated after 4 years of no evaluation. New teachers will have their performance appraised twice during their year in the classroom. In addition, a rating scale will be applied to teachers' performance – Satisfactory or Unsatisfactory.

The fully developed process will include:

1. a meeting with the principal to review the learning plan
2. a meeting with the principal to complete pre-observation sections of the summative report
3. a classroom observation by the principal
4. a post-observation meeting with the principal to complete the relevant sections of the summative report
5. a written report by the principal within 20 days
6. ALP must be reviewed by the teacher, and signed by the principal each year
7. student and parent input may be considered in the ALP
8. staff development and professional learning opportunities at the school and within the board must be delineated by the principal and the board before ALP is completed.

Note: The Experienced TPA is in the first year of implementation in 2007-8. Many Boards will not be able to provide for their professional learning needs across their jurisdiction until OECTA members articulate their needs. This annual cycle of OECTA needs assessment and the staff and professional development delivery by Board Resource Teams is in the formative stages.

**QUESTIONS AND COMMENTARY****What if the rating is unsatisfactory?**

In the case of an unsatisfactory rating, there will be a notice by the principal within 15 days. Shortcomings and expectations will be itemized by the principal. In addition, the supervisory officer will be notified. A second appraisal will be made within 60 days or less at the discretion of the principal. If there is a second unsatisfactory report, review status begins. A third appraisal may take place within 120 days or sooner at the principal's discretion. A principal may decide not to have a third appraisal "in the interest of the pupils." If the third unsatisfactory rating is given, the principal shall transmit the notice for termination. The number and frequency of these visits should be disclosed to the Association Representative. The Association Representative should be advised of all members on "review status." In addition, any change in "review status" or notice for termination should be disclosed to the representative.

**Is there a grievance and arbitration mechanism for teachers?**

There will be grievances to assure the just cause and management rights provisions of the collective agreement continue to apply. A breakdown of procedure could be fatal to the board's case. All the steps of the regulation must be followed by the principal. The application of "Just Cause" will assure fairness in the application of the Regulations. Any action taken to dismiss, transfer or discipline a teacher regarding "performance," must be only an extreme measure – not a matter of course. All aspects of TPA are within the scope of the grievance procedure.

**Where can teachers get information about Teacher Performance Appraisal?**

The OECTA website and the Ministry of Education

**What if my board already has an Evaluation policy?**

OECTA and the Catholic District School Board, who are parties to the local collective agreement, may comply with the new regulations by making minor modifications, as long as the evaluation procedure complies with the Bill and the regulations.

While a board policy may contain procedures on “appraisal,” OECTA units cannot accept additional “competencies” or “look-fors.” If the local policy is not acceptable, the policy must be brought into compliance with the OECTA objectives through negotiations.

Collective agreements must be the regulating document for all matters of employment and job security, not board policy.

### **What provisions assist the Association Representative?**

- Disclosure to the teacher of all documents used for evaluation
- Disclosure of the entire list of teachers in the evaluation year to the Association Representative in each school
- Dominance of Just Cause over all procedures
- Provision of adequate resources to assist teachers in the process
- Disclosure of teachers in “review status” to the Association Representative or the unit

### **What are the dates and timing for the Association Representative to consider?**

The Association Representative in each school should make the requests for disclosure in a timely manner. Any teachers in the evaluation year should be advised within 20 school days from the start of the year (before 4:00 p.m., September 30). Completed lists should be made available to the Association Representative on or before September 30. A teacher cannot be added to the list for the current evaluation year after September 30.

The Association Representative will have a status and activity list for all teachers who are in the current evaluation year that is readily available to the unit president.

### **Do parents and students have the right to make confidential comments in a teacher evaluation?**

**No.** Regardless of confidentiality provisions at a board, OECTA will demand disclosure of any document to be used in the evaluation process.

**Is every teacher required to have an Annual Learning Plan?**

Regulation 96/07 requires every teacher to have an ALP commencing in September 2007. OECTA has a resource on ALP for all teachers. The regulation requires the learning plan to be prepared by the teacher in consultation with the principal, and a meeting is prescribed for this purpose only in the evaluation year of the 5-year cycle.

Local OECTA units or the Association Representative in each school should help teachers get information about these procedures. Units are encouraged to hold training sessions for Association Representatives to prepare for the implementation of the Experienced TPA in their schools. Units who need assistance in training or obtaining the required documents should contact the provincial office. The required meetings of the Ministry of Education regional coordinating committees will involve all boards and OECTA leaders.

Each OECTA local unit will need to negotiate provisions to protect the ALP as a teacher controlled document. Without OECTA and individual teacher support for the teacher controlled ALP, the principal, the board and the Ministry will control the ALP.

# CHAPTER 4

## CONTRACT SERVICES

### Part 1

### Grievances

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Grievances usually begin at the unit level. If a teacher or a group of teachers feel that the collective agreement has been violated they should approach the Unit President or grievance officer. The unit release officer(s) will assist the member(s) in processing the grievance at the early stages. Provincial Office authorizes the grievance at the earliest stages and the appropriate staff officer may assist in the processing.

When a grievance approaches the arbitration stage the Provincial staff officer will make a recommendation to the Provincial Executive as to whether support for arbitration should be given. The Provincial staff officer then works with legal counsel to prepare the grievance for presentation at arbitration.

The role of the Association Representative in the grievance process is twofold:

- (i) to be conversant with the collective agreement and aware of the article relating to grievances in order to advise a staff member seeking information; and
- (ii) to assist in gathering all information relating to the alleged violation of the collective agreement, such as the names of witnesses, a chronology of events, any documentation related to the violation.

## Part 2

# Employment Insurance (EI)

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### Types Of Benefits

There are two types of Employment Insurance (EI) Benefits:

- Regular benefits: paid to teachers who are unemployed and looking for work.
  
- Special benefits: paid to teachers who:
  - (i) cannot work due to illness and are not entitled to paid sick leave;
  - (ii) are accessing pregnancy/parental leave; or
  - (iii) are accessing compassionate care leave benefits

**Note:** A special benefit can interrupt a regular benefit, e.g., pregnancy/parental while unemployed.

**EI Premium Contributions:** Teachers currently pay \$0.026 on each dollar earned for up to \$40,000 in total earnings. This amount may be amended up or down annually.

**Hours Required To Qualify For EI Benefits:** Each member's ability is dependent upon three hours-related factors:

1. The number of "insurable hours" worked in the previous 52 weeks.
  
2. Whether or not the member is considered a "new entrant" or a "re-entrant."
  
3. The type of benefit being claimed.

"Insurable hours" are actual hours worked for which premiums were paid. These are reported on the "Record of Employment" which must be issued by the board when you leave employment.

"New entrants" or "re-entrants" are persons entering the workforce for the first time or with an accumulation of less than 490 hours in the 52 weeks preceding the qualifying period or re-entering the workforce after two years' absence. Members in these categories must put in 910 insurable hours to qualify for benefits. This hourly requirement does not apply to "special benefits."

Members seeking “regular benefits” are required to have from 420 to 700 hours of insurable earnings depending upon the regional rate of unemployment. Specific information is available from your local Service Canada office or check [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca). Assistance can also be sought from your local Unit President.

Those members seeking “special benefits” (pregnancy/parental, sickness and compassionate care) require a minimum of 600 insurable hours in the previous 52 weeks.

**Amount Of Benefit:** Current maximum EI Weekly benefit is \$423. This benefit will vary according to claim history.

**Claim History And The Effect On Benefits:** As of January 1997, a member’s benefit may be reduced by claim history. This applies to teachers who received EI benefits for 20 or more weeks since June 30, 1996. Once again specific information has been provided to all units by the Provincial Office.

## Part 3

# Pregnancy and Parental Rights

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The payment of Employment Insurance Special Benefits is governed by Federal Statute while leaves of absence and pregnancy/parental benefits are regulated by the *Ontario Employment Standards Act*.

Local collective agreements may also contain provisions and other benefits relating to pregnancy/parental leave. Members are reminded to check their collective agreement and to contact their local unit for specific information and time lines.

Some collective agreements have top-up provisions for the EI weekly benefits. All EI benefits are taxable under federal, provincial and territorial jurisdictions.

Extension of the parental leave beyond the statutory provisions has no EI benefits. In addition, the extension of the parental leave may affect your assignment or placement upon return to work.

Members may also continue to contribute to the Ontario Teachers' Pension Fund while on statutory leave. Local units can provide assistance in these processes.

FEDERAL: EI SPECIAL BENEFITS	PROVINCIAL: EMPLOYMENT STANDARDS ACT
<p><b>Pregnancy</b></p> <ul style="list-style-type: none"> <li>■ 2 weeks unpaid waiting period — some Catholic District Boards provide a Supplementary Employment Benefits Plan</li> <li>■ 15 weeks of EI Benefit;</li> <li>* no benefits earlier than 8 weeks before birth or later than 17 weeks after birth</li> </ul>	<p><b>Pregnancy</b></p> <ul style="list-style-type: none"> <li>■ up to 17 weeks leave</li> <li>■ may begin no earlier than 17 weeks before expected date of delivery</li> </ul>
<p><b>Parental</b></p> <ul style="list-style-type: none"> <li>■ up to 35 weeks of parental benefits to be accessed by one or shared by two</li> </ul>	<p><b>Parental</b></p> <ul style="list-style-type: none"> <li>■ up to 35 weeks for natural or adoptive mother and father</li> <li>■ leave follows pregnancy leave for natural mother</li> <li>■ adoptive parents or natural father must begin leave no later than 52 weeks after birth or arrival in parent’s care</li> </ul>
<p><b>Requirements</b></p> <ul style="list-style-type: none"> <li>■ must have accumulated 600 hours of insurable earnings in previous 52 weeks</li> <li>■ average weekly earnings calculation is based on the 26-week period before filing</li> <li>■ maximum of 30 weeks Special Benefits in a 52-week period</li> <li>■ claimants whose net income exceeds 1.25 x E.I. Maximum annual insurable earnings will have to repay 30% of EI Benefit received</li> <li>■ rules lowering benefit levels based on claim history do not apply to Special Benefits</li> </ul>	<p><b>Requirements</b></p> <ul style="list-style-type: none"> <li>■ must have been employed at least 13 weeks by the same employer</li> <li>■ must give a minimum of 2 weeks notice of leave</li> <li>■ must give 4 weeks, notice to change end date</li> <li>■ employers must continue to pay their share of benefits</li> <li>■ salary and seniority credit continue to accumulate</li> <li>■ redundancy cannot take effect during leave</li> <li>■ reinstatement to position held before leave if it still exists</li> <li>■ parent means natural, adoptive and a person in a relationship of some permanence</li> </ul>

**NOTE:** There are exceptions to the above rules if the expectant mother is ill or the baby is hospitalized. Recent arbitrated decisions have resulted in increased abilities for the natural mother to access accumulated sick leave immediately following the birth of the child. Expectant mothers should be in contact with their local unit well in advance of the birth of the child to determine access to cumulative sick leave, and make the appropriate arrangements.

## Part 4

# Occupational Health and Safety

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Teachers are covered by the *Occupational Health and Safety Act* under Ontario R.R.O.1990, Regulation 857. A teacher has the right to exercise a work refusal but must ensure the safety of the students in his/her care at all times.

### **JOINT HEALTH AND SAFETY COMMITTEE**

Joint Health and Safety Committees (JHSCs) are appointed in all workplaces where there are twenty (20) or more employees. All employees, including teachers, are governed by the *Occupational Health and Safety Act*. The school boards are responsible for ensuring that a JHSC is in place within the jurisdiction of the school board. Each school board and the Association must set up a functioning JHSC. Once established, the JHSC meets and determines the Terms of Reference for the JHSC.

The school board and the unions may agree on an alternate structure for the JHSC. In some instances, there is one board JHSC which represents all of the teacher bargaining units and the employer, followed with Health and Safety Representatives at each school.

In other situations, some JHSCs are comprised of representatives from all the various unions and worker groups within the board as well as management. Finally, there can also be separate JHSC for each respective employee group. In such cases, there are several JHSC each representing the board and only one specific bargaining unit. For example, there would be an elementary JHSC, a secondary JHSC and a CUPE JHSC.

School boards are multi-site employers. As such, where a central JHSC is in place, the Terms of Reference for the Structure and Guidelines of the JHSC must be approved by the Minister of Labour through the Regional directors. This is governed by Section 9 subsection 3.1 of the Act as an alteration to the requirement under the Act for a JHSC at each worksite.

## **OCCUPATIONAL HEALTH AND SAFETY**

School inspections are the responsibility of the Joint Health and Safety Committee. The teacher worker members on the JHSC are appointed by the union. The local executive should approve their appointment and forward the names to the appropriate board officer. This is the same for central or site-based JHSC committees. Only the worker members of the JHSC select the worker member of the JHSC who will be responsible for the inspections of the worksite. The schedule for the inspections is established by the JHSC. This particular schedule would be determined by the Joint Committee, usually prior to the commencement of the school year or within the first month of school.

Inspections must occur once per month in each site either in whole or in part. Each school board may have designed a different Inspection Report Form. Teacher Health and Safety Representatives are responsible for keeping the JHSC informed of any concerns that teachers raise at the school level. There may be other duties assigned to the Health and Safety Representative by the unit or by agreement between the school board and the unit.

**If there is no Health and Safety Representative appointed by the local unit, then the responsibility of informing the worker co-chair of the JHSC usually rests with the Association Representative.**

If the worker co-chair is not a teacher (in multi-union JHSCs) the Health and Safety Representative or the Association Representative should inform the teacher worker representative on the JHSC of the concerns.

In addition, it is also important for the information to be communicated to the Unit President immediately. The procedures for communicating with the local president should be established by the local unit executive. If your unit has written procedures, these can be added to this section of the Association Representative Handbook for quick and easy reference.

## **LEGAL DOCUMENTS**

Each Association Representative should have a copy of the *Occupational Health and Safety Act* for quick and easy reference. The Carswell Consolidated Ontario Employment and Labour Statutes and Regulations contain the necessary information.

## FREQUENTLY ASKED QUESTIONS

### **1. Do teachers have the right to refuse unsafe work?**

Teachers have the right to refuse unsafe work. However, this right is limited in that the teacher must ensure the safety of the students in his or her care. The procedure for a work refusal is outlined in the Act. The teacher must report to the principal that the teacher is exercising their rights under the *Occupational Health and Safety Act*. The principal is responsible for investigating the situation immediately in the presence of the teacher and a joint health and safety committee member.

### **2. When can a teacher refuse to work?**

A teacher can refuse to work if he or she has reason to believe that continued work in that particular situation will endanger himself or herself or another teacher. The teacher does not have to be correct in his or her perception, but must truly believe that there is danger.

### **3. Can the principal or the board assign the teacher to another classroom if there is a work refusal?**

If the reason for the work refusal was a particular room, for example a portable classroom, then the principal could reassign the teacher to another classroom for a temporary period of time. This does not allow the principal to ignore the work refusal. The situation must still be investigated. The teacher who has exercised the work refusal has a right to be present at the investigation.

### **4. Are schools required to be inspected?**

In accordance with the Act, all worksites must be inspected by a worker member of the Joint Health and Safety Committee. The schedule for the inspections is determined by the JHSC. Schools must be inspected a minimum of once per month. The teacher representative is selected solely by the teacher members of the JHSC. In the case of a multi-union JHSC, the worker representative who inspects the schools could be an individual who is not a teacher. This should be outlined in the Terms of Reference. Parts of the school may be inspected on a monthly basis, but the entire school must be completed in one year.

**5. Can a teacher be disciplined for refusing to work?**

No. The teacher has protection under the Act. The board is not allowed to penalize, dismiss, suspend or threaten to do any of these things if the teacher has exercised his or her rights under the Act. This also includes if a teacher is required to testify or give evidence at a hearing.

**6. What if a teacher believes that he or she has been disciplined by the board?**

Any teacher who believes that he or she has been disciplined by the board, including the school administration, should contact the Association Representative immediately. The local unit, in consultation with the provincial office, will determine the best course of action. The teacher also has the right to file a complaint with the Ontario Labour Relations Board. The Ministry of Labour can also assist in such situations, acting as a mediator. The Ministry of Labour does not play an enforcement role and cannot issue any orders in these circumstances. The OLRB has an enforcement role and can issue work orders to remove or repair workplace hazards.

**7. Is harassment, intimidation or fear of violence in the school within the scope of Occupational Health and Safety?**

All the potentially dangerous elements in the workplace are within the scope of the Act. Association Representatives must be diligent and patient to report all hazards to keep the workplace safe.

## Part 5

# Workers' Compensation

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The Association Representative can assist the unit president or release officer where a teacher has been injured as a result of a workplace accident or an occupational illness.

The Association Representative should notify the unit officers that a teacher has been injured at school or in an assigned workplace. This is especially important where the injured teacher has lost work.

The Association Representative should advise the injured worker to contact the local unit or the provincial office for assistance in completing any forms from the Workplace Safety and Insurance Board (WSIB) or from the school board. Forms that are detailed and accurate can often enable a speedy approval from the WSIB.

Guidance from the local unit or provincial office can assist an injured worker in determining what information is to be conveyed to the school board, especially as it relates to medical information. The school board is **not** entitled to the medical information that is provided to the WSIB. The school board is **only** entitled to the Functional Abilities Form (FAF) that is provided by the WSIB.

The Association Representative should also ensure that the teachers on staff are aware of their rights and obligations under the *Workplace Safety and Insurance Act*.

The Association Handbook has included an Appendix to assist you in your role.

**APPENDIX****What is workers' compensation?**

Workers' compensation are monies and benefits such as health care that are provided to workers with work-related injuries or illnesses under the *Workplace Safety and Insurance Act*.

**Who approves a claim for workers' compensation?**

The Workplace Safety and Insurance Board through the claim adjudicator (CA) makes the decision to approve or deny the claim.

**What is the procedure for initiating a claim for workers' compensation?**

The injured worker or worker with an occupational illness must report the accident or illness to the employer. The employer is responsible for ensuring that Form 7 is sent to the WSIB and a copy is provided to the worker.

The injured/ill worker can also report the injury to his/her health care professional, and the health care professional must send in the WSIB Form 8. The medical professional who is taking care of the injured/ill worker is responsible for Form 8.

The employer is responsible for ensuring that Form 7 is sent to the WSIB and a copy is provided to the worker.

The injured/ill worker is responsible for completing and reporting Form 6 to the WSIB. The worker must provide the employer with a copy of Form 6.

**To qualify for workers' compensation, the worker must:**

- be employed by the school board
- have an injury or illness that is directly related to the work
- file a claim and provide consent to the release of functional abilities information to the employer by a health professional treating you
- provide all relevant information to help the WSIB decide on benefits
- cooperate in your health care treatment
- cooperate in any early, safe return to work or labour market re-entry program
- report to the WSIB any material change in your circumstances. Material change includes, but is not limited to, any change in your income, your return to work status or your medical condition.

**What does the injured/ill worker receive?**

The injured/ill worker will receive monies based on 85 per cent of your pre-injury take-home earnings (net pay) less any earnings you may have after the injury, to a maximum amount of \$61,030.

In some school boards, there is usually a provision to top-up your earnings through the use of sick leave. This is usually an option for the injured worker to decide. When an injured worker elects to top-up his/her workers' compensation payment, these additional monies are off-set through sick leave credit deductions. Once the sick leave credits are exhausted, there are no top-up benefits.

**How long can a worker receive workers' compensation payments?**

The Loss of Earnings (LOE) benefit is paid beginning the day after the injury or when the loss of earnings begins. The employer must pay the wages for the injured worker for the day that the injury occurred.

The LOE benefit is paid until the injured worker no longer has a loss of earnings. LOE benefits will stop if:

- (i) injured worker returns to work and has the same or greater earnings prior to injury
- (ii) a Labour Market Assessment or Plan deems the injured worker can earn the same or greater monies prior to the injury in suitable employment
- (iii) when the injured worker turns 65 years old.

**Is the injured worker entitled to other benefits?**

An injured worker will be paid certain determined costs related to the workplace injury or disease. These depend on individual circumstances.

Some of these benefits are:

- health care costs
- medical costs
- prescription drug costs
- special clothing or footwear costs
- transportation costs

## Part 6

# Long Term Disability

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When a situation develops where a member may be required to be absent from his/her duties for an extended period of time, consideration of Long Term Disability (LTD) benefits should be initiated. In many OECTA units, it is the role of the Association Representative to notify the unit office of a staff member's extended absence as part of the unit's LTD early intervention program.

The Association Representative should advise the member to contact the unit office **prior** to beginning the LTD application process. The Unit President will be able to provide information and advice regarding the requirements and timelines involved in the LTD process.

Some simple but important information that the Association Representative can provide to the member related to proper medical care, use of sick days, and when to apply for LTD.

The Association Representative should inform a member that to obtain LTD benefits, the member should be under the care of doctor who is a **specialist**. For example, a member suffering from depression, or other cognitive illness, should be under the care of a psychiatrist or registered psychologist; fibromyalgia sufferers should be under the care of a rheumatologist. The type of counselling normally offered through school board Employee Assistance Programs does not meet the treatment requirements of LTD plans.

The Association Representative should also inform the member that she/he may **not** have to use up all her/his accumulated sick leave before attempting to obtain LTD benefits. Have the member contact their unit office. The LTD application and approval process is, at times, a slow and bureaucratic process. Consequently, early identification and application make the process go much more effectively. Most LTD policies require that an application be filed within six (6) months of the end of the waiting period.

The Collective Agreement contains information relevant to the respective plan and the unit office will be able to assist in the application and appeal process.

***In a majority of cases, the Association Representative can best serve the member for LTD benefits by simply directing the member to contact the Unit office.***

## Part 7 Accommodation in the Workplace

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[Click here for the Accommodation in the Workplace is Your Right pamphlet.](#)

**a disability  
doesn't**

**ACCOMMODATION**

**mean being  
unable**

**IN THE WORKPLACE**

**to do  
the job - -**

**IS YOUR RIGHT**

## CHAPTER 5

# COUNSELLING AND MEMBER SERVICES

## Part 1

### Role of Counselling and Member Services

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The function of the department is to respond to inquiries from our members that do not fall clearly under Collective Bargaining, Professional Development, Accounting, Member Services or Administration. (Often there are overlaps.) The problems dealt with cover a wide range of professional or job centered difficulties and matters that, while based in family or private life, affect professional performance or relations.

Such is the nature of these issues and such is the potential effect upon basic employment, that the utmost confidentiality and sensitivity are required in dealing with them. Out of respect for the sensitivity of a situation, there are a few occasions when the unit is not informed. Increasingly, however, the Unit President is an early contact of the member and refers the member to the Provincial Office.

*Be Wary, Be Wise*, which consists of a book, accompanying video and workshop, is a valuable resource developed by the department to help teachers answer two important questions:

- How can I avoid false allegations?
- What should I do if my conduct is under investigation?

Department members may provide assistance in the following areas:

- General Counselling
- Legal Advice
- Criminal Charges
- Civil Actions
- Dismissals and Contract Termination
- Teacher Assault
- Career Planning/Career Change

- Employee Assistance Program Information
- Harassment Policies – parental, student, workplace
- Interpersonal Relationships
- Pension Matters
- Annulment Process
- Professional Ethics
- Violence-Free Schools
- Grants (dire distress)
- College of Teachers – investigations and hearings

## Part 2

# Assault Policy

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1. That members be supported by the Association in situations arising out of an assault (actual or threatened, verbal or physical) upon their persons, sustained in the course of their professional duties.
2. That where a member has suffered an assault, the following steps should be followed:
  - a. the assailant is to be removed from the presence of the member immediately
  - b. the member is to receive immediate medical attention where warranted and medical verification of the assault, either from a doctor called to the scene or from the nearest hospital
  - c. the member or if necessary a colleague, informs the principal at the earliest opportunity, and the principal, in turn, informs the central board office that an assault has taken place and requests that the board's legal counsel be so advised
  - d. the principal or designate immediately establishes that an assault has occurred and identifies any witnesses
  - e. where the alleged assailant is a student in that school, the principal immediately reassigns the student out of the classes of the assaulted member and, where it is possible this reassignment is permanent
  - f. where the investigation establishes that an assault has taken place and that the assailant is a student in that school, the student is immediately suspended from school and the parent or guardian so informed
  - g. that the student is not subsequently assigned to the member's classes

- h. where the investigation establishes that the assailant is a person other than a student in that school, or where, in an event, the assault is of a serious nature in terms of bodily harm, the principal calls the police to investigate
- i. subject to consultation with the assaulted member, and the member taking legal advice through the Association and/or the board, the principal calls the police to investigate, regardless of the source or gravity of the assault
- j. the principal makes a written account of the events, times and witnesses and furnishes the member with a copy of this account and any other reports pertaining to the assault
- k. the member, or if necessary a colleague or the principal, informs the Association Representative and the unit president of the assault
- l. where necessary, the member receives time off from all duties without loss of pay or sick leave until able to resume duties
- m. the unit president informs the Association's provincial office of the assault
- n. the member is given every opportunity, with the advice of the Association's lawyer, to consider commencing a civil action for damages for physical injuries sustained in the assault and emotional distress resulting from those injuries or, alternatively, to seek benefits from the Workplace Safety and Insurance Board.

### **SAFE SCHOOLS ACT**

On June 14, 2000, the *Safe Schools Act* (Bill 81), was passed. The Act gives the Minister of Education the power to establish a provincial Code of Conduct and sets out the purposes of the Code. This Act lists "infractions" that require suspension and expulsions of students.

It was the position of OECTA that teachers **should not** suspend students despite the recommendation in Bill 81 that they be afforded that right. Instead, teachers would report any students committing offences warranting suspension, as outlined in the Code of Conduct, to the principal.

In May 2007, Bill 212 – *Education Amendment Act* (Progressive Discipline and School Safety) was passed. The Bill repealed the provisions that had given teachers the power to impose mandatory or discretionary suspensions. Instead, decisions regarding suspension or expulsions will be made by the principal or the board. This removes areas of potential professional and civil liability from teachers.

This Act also expands the range of behaviours which may lead to suspension to include “bullying” and conduct outside of school, which “will have an impact on the school climate.”

The recent trend in “cyber-bullying” would now be included amongst other off-site behaviour which may lead to suspension.

In the case of suspension or expulsion, the Act requires notice from the principal or the board of the suspension or expulsion to the parties involved (student, parents, guardian) including the teacher.

OECTA will advocate for all affected members, including Association Representatives to get notice of all relevant suspensions and expulsions.

## Part 3

# Harassment

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Harassment is a form of unlawful discrimination. According to the Human Rights Code harassment is defined as “to be known to be unwelcome.” It is important to understand that harassment does not have to occur repeatedly to be taken seriously. One incident of a severe nature can be defined as harassment.

The Ontario Human Rights Code states: “Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place or origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status or handicap.”

In addition, the Code deals separately with the issue of harassment because of sex/gender. “Every person who is an employee has a right to freedom from harassment in the workplace because of sex by his or her employer or by another employee.”

The Ontario Human Rights Code also prohibits sexual solicitation and reprisal, and states that every person has a right to be free from:

1. sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows, or ought reasonably to know that is unwelcome; or
2. reprisal or threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit of advancement to the person.

What are some examples of workplace harassment? Harassment can be physical, verbal, nonverbal or graphic. Examples of these might be:

- unwelcome touching or patting
- intimidation
- verbal or written abuse or threats
- sexual or physical assault
- questions about a person’s sex life

- telephone calls with sexist or racist overtones
- insults or jokes related to sex, race or ethnicity
- isolation, leering, inappropriate notes
- inappropriate comments on physical attributes, appearance or behaviours
- suggestive gestures, displays of offensive materials
- graffiti, put-downs of a person's abilities
- language which reinforces stereotypes

Harassment occurs because of power differences between people. These power differences are perpetuated through assumptions and stereotypes that the dominant groups in society have about the groups they view as subordinate. It occurs because some people need to exercise power and control over others and to discount the value of other people in order to feel better about themselves. By intimidating and disempowering their victims, harassers feel empowered.

The existence of harassment is not contingent on whether or not there was an intent to harass. Rather, it is contingent on what the impact is on the complainant – from the complainant's perspective.

The only way to eliminate harassment is to speak out, then take action.

Check your local school board's Harassment Policy.

Members who experience harassment should follow the board policy. The Association Representative may assist them in obtaining the policy, and immediately referring the matter to the local unit office. The Association Representatives should not get directly involved in the process. The Duty of Fair Representation (DFR) referenced earlier requires the unit to assist the accused if the accused is a fellow member.

## Part 4

# Ontario Human Rights Code

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The Ontario Human Rights Code provides that every person has a right to freedom from discrimination on grounds that include race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, handicap, family status, age or marital status.

The Code also forbids harassment which is defined as a “course of vexatious comment or conduct that is known or ought reasonably to be known as unwelcome.”

A member who believes that his/her rights have been violated under the provisions outlined in the Ontario Human Rights Code may choose to file a complaint.

### Complaint procedures

- a. Direct the complainant to the Ontario Human Rights Commission.
- b. When the Commission files the complaint, a copy of the signed complaint is sent to the complainant and the person complained against (respondent).
- c. If the Commission decides not to file the complaint, it must notify the person in writing, giving reasons for the decision. In addition, it must advise the person of his/her right to have a reconsideration of the decision.
- d. The Commission will convene a mediation session with the agreement of both parties.
- e. If the complaint is filed, the Commission will establish a fact-finding investigation, which may lead to a settlement or to an extended investigation.
- f. After an extended investigation, the Commission will set up a conciliation meeting of all of the parties.
- g. If no settlement is reached, then the Commission will either appoint a Board of Inquiry or decide not to proceed further with the complaint.

- h. The Commission may decide to appoint a Board of Inquiry who may render an order or dismiss the complaint. The order of a Board of Inquiry may be appealed on questions of fact or law to the Divisional Court of the Supreme Court of Ontario.
- i. If the Commission decides not to proceed with the complaint or appoint a Board of Inquiry, the complainant may request a reconsideration of the decision.

## FREQUENTLY ASKED QUESTIONS

### **1. Are there other options available to teachers instead of filing a complaint to the Ontario Human Rights Commission on matters pertaining to harassment?**

Teachers may have the following options available:

- filing a grievance under the Collective Agreement
- access to the board's Harassment Policy and Procedures

Note: OEFTA is obligated to exhaust such local mechanisms on the member's behalf.

### **2. What do I, as an Association Representative, do if someone complains of harassment?**

- listen to the complainant
- advise the complainant to document the incident(s)
- be sensitive
- maintain confidentiality
- seek advice from your local president immediately

### **3. Are there reprisals against an individual who files a complaint under the Human Rights Code?**

Every member has a right to claim and enforce his/her rights under the Code and to institute and participate in proceedings stemming from a complaint. Members can also refuse to infringe upon a right of another person under the Code, without fear of reprisal or threat of reprisal for doing so.

## Part 5

# Ontario College of Teachers

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The *Ontario College of Teachers' Act* was proclaimed in legislation in 1996. Legislation mandated the College with responsibility for developing standards of teaching practice, teacher certification, teacher professional development, accrediting teacher education programs and the investigation of complaints involving teachers.

Membership in the College is a requirement for any teacher who wishes to maintain their teacher certification for Ontario schools.

All Ontario teachers must pay an annual fee to the College. The current fee for 2007 is \$104, and is usually deducted by the Catholic District School Board and forwarded to the College. **Occasional teachers, faculty graduates, teachers on leave and retired teachers wishing to be placed on Occasional Teacher lists are usually responsible for the payment of fees directly to the College.** Local Unit Presidents will be able to provide information on college fee payment in their respective units.

It is imperative that validation of payment, receipt and membership is maintained by the individual members in the event a challenge is issued. As the college fee is a recognized tax deduction, formal receipts are issued directly by the College.

The College is governed by a council composed of 23 elected members and 14 government appointees. Every certified teacher who is a member of the College is eligible to vote in the election of members.

OECTA, through the Provincial Office and affiliation with OTF, continues to monitor the development and implementation of the Ontario College of Teachers to ensure fair treatment and maintenance of the individual rights of members.

## Part 6

# Professional Ethics – Duties of Members

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As members of OECTA we are also members of the Ontario Teachers' Federation (OTF) and therefore governed by their policies, procedures, bylaws and the Regulations under the *Teaching Profession Act*.

In particular the Regulations under the *Teaching Profession Act* sections 13 to 18, govern our duties to members, pupils, educational authorities, the public and the Federation. These are printed in your OECTA pocket planner.

These duties are cross-referenced in the Ontario College of Teachers' regulation of professional misconduct.

Especially problematic are situations where members make negative comments about colleagues to Principal, other teachers, Police, CAS workers or the Ontario College of Teachers and fail to inform their colleagues of these reports.

Teachers should be aware:

18.(1) A member shall,

- (a) avoid interfering in an unwarranted manner between other teachers and pupils;

Teachers are reminded that:

18.(1)(b) *requires*

a member on making an adverse report on another member furnish him/her with a written statement of the report at the earliest possible time and not later than three days after making the report.

The only exception to this requirement is the recently approved

18.(1)(c) which states:

'Notwithstanding section 18(1)(b) a member who makes an adverse report about another member respecting suspected sexual abuse of a student by that member need not provide him or her with a copy of the report or with any information about the report.'

It is important that members recognize the dual responsibility they have. Members must cooperate with the school board authorities, Police, CAS, and the Ontario College of Teachers while fulfilling the requirements of 18(1)(b).

When a situation is serious and therefore information must be reported, a member must inform their colleague of their report, except when it relates to sexual abuse of a student.

## CHAPTER 6

# PROFESSIONAL DEVELOPMENT

OECTA offers members a variety of professional development opportunities including AQ courses, conferences, workshops and symposiums that are developed for teachers and by teachers.

Additional Qualification courses in Primary Education, Reading, Religious Education and Special Education qualify for upgrading and are accredited by the Ontario College of Teachers.

Conferences, workshops and symposiums focus on what teachers want – practical information rooted in sound research.

A major component of the PD work at the provincial level involves cooperating with local units to provide PD opportunities at minimal cost to members.

In addition to providing professional development opportunities to members, the PD department services as OECTA's communication link and teacher advocacy representative on curriculum committees, work groups and consultation sessions at the Ontario Teachers' Federation, Ministry of Education, curriculum cooperatives, Institute for Catholic Education (ICE), Education Quality and Accountability Office (EQAO) and the College of Teachers. Department members report the information gathered at regular ongoing meetings with these stakeholder groups to the Provincial Executive and the Council of Presidents.

The Ministry of Education is now fully engaged in the development and implementation of resources and strategies related to improving student performance in the areas of literacy and numeracy. The Ministry has provided funding grants to the education affiliates, including OECTA, for teacher resources, training through lead teachers and developing collaborative work cultures (or professional learning communities). With funding from the Ministry, OECTA developed several symposiums to be offered until June 2008, including Kindergarten Matters, Teachers as Leaders, Anti-Bullying and Media Literacy.

For more details on PD activities, [click here](#).

# CHAPTER 7

## PROVINCIAL CORRESPONDENCE

### Communication Department

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The Communication Department supports OECTA's mandate to serve members and advocate for a strong publicly-funded Catholic education system. In consultation with the provincial executive, secretariat and editorial board, the department implements a comprehensive communication program for members, the public and the provincial government.

Responsibilities include:

- OECTA's website **[www.oecta.on.ca](http://www.oecta.on.ca)**
- AGENDA - the official newsletter of the Association. Each issue, published during the school year, contains news and information that OECTA has a legal obligation to share with its members, as well as upcoming events and topics of interest to teachers. Copies are delivered to schools to the attention of the Association Representative for distribution to members through their school mailbox.
- FAXAGENDA - quick updates on timely and urgent information from the provincial office. It is essential that FAXAGENDA be posted in the school staffroom and distributed to members ASAP.
- Communication and education advocacy training for unit presidents and communication officers
- Communications, advertising and media relations support to units on local and provincial issues
- Editorial, production and publishing services for all provincial office communication activity

# GLOSSARY

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AEFO	Association des enseignantes et enseignants franco-ontariens
CCC	Catholic Curriculum Cooperative (Central and Western)
CCDC	Christian Curriculum Development Conference
CEA	Canadian Education Association
CEFO	Catholic Education Foundation of Ontario
CRECO	Council of Religious Education Consultants of Ontario
CTF	Canadian Teachers' Federation
EI	Education International
EIC	Education Improvement Commission
EOCCC	Eastern Ontario Catholic Curriculum Cooperative
ETFO	Elementary Teachers' Federation of Ontario
ERC	Education Relations Commission
FEUT	Faculty of Education, University of Toronto
ICE	Institute for Catholic Education
LCBC	Local Collective Bargaining Committee
NOCCC	Northern Ontario Catholic Curriculum Cooperative
OAEAO	Ontario Association of Education Administrative Officials
OASBO	Ontario Association of School Business Officials
OCSCF	Ontario Catholic Student Council Federation
OCSOA	Ontario Catholic Supervisory Officers' Association
OCSTA	Ontario Catholic School Trustees' Association
OCT	Ontario College of Teachers
OEA	Ontario Education Alliance
OECTA	Ontario English Catholic Teachers' Association
OFCSA	Ontario Federation of Catholic School Associations
OISE	Ontario Institute for Studies in Education
OPEN	Ontario Public Education Network
OS:IS	Ontario Schools: Intermediate and Senior
OSSTF	Ontario Secondary School Teachers' Federation
OSTC	Ontario School Trustees' Council
OTF	Ontario Teachers' Federation
OTIP	Ontario Teachers' Insurance Plan
PISA	Program for International Student Assessment
QECO	Qualifications Evaluation Council of Ontario
RTO	Retired Teachers of Ontario
SAIP	School Achievement Indicators Program
TIMSS	Trends in International Mathematics and Science Study
WUCT	World Union of Catholic Teachers