



2018: B08

MEMORANDUM TO: Senior Business Officials

FROM: Andrew Davis
Assistant Deputy Minister
Education Labour and Finance Division

DATE: April 16, 2018

SUBJECT: Non-unionized Education Workers

I am writing to provide you with an update and information regarding the resolution of matters related to the *Putting Students First Act, 2012* (PSFA).

As you are aware, in April 2016, the Ontario Superior Court rendered a decision in the constitutional challenge to the PSFA launched by the Ontario Public Service Employees Union (OPSEU), the Ontario Secondary School Teachers' Federation (OSSTF), the Elementary Teachers' Federation of Ontario (ETFO), the Canadian Union of Public Employees (CUPE), and Unifor. The Court did not make any orders with respect to remedy, instructing the parties, instead, to consult and attempt to agree on remedies. The government's first priority in the discussions was to seek resolution with the applicants to the constitutional challenge. Agreements were subsequently reached with OSSTF, CUPE, OPSEU, and Unifor. Remedy with respect to the constitutional challenge remains outstanding with ETFO, who has indicated that it will be returning to Court.

Fairness and equity is a key component of rebuilding our relationships with school board employees, including unionized and non-unionized groups. Accordingly,

1. We have undertaken discussions with our labour partners who were not parties to the challenge and are pleased to advise that we have reached agreements with those labour partners. These agreements include confirmation that those federations and unions would not file Charter challenges of their own or seek to participate as interveners in any remaining Charter proceedings arising from the PSFA, as well as settling other matters.

2. We have also reached a settlement with representative associations of principals and vice-principals who participate in provincial discussions on terms and conditions of employment.

The following outlines the next steps for other non-unionized employees, i.e. those not represented by a teachers' federation, education worker union, or principals' and vice-principals' association in order to support the relationship between those employees, their employers, and the Crown. These provisions are for those non-unionized employees not covered by O. Reg. 304/16, Executive Compensation Framework, made pursuant to the *Broader Public Sector Executive Compensation Act, 2014*.

Implementation Details for Non-Unionized Employees

The Ministry will provide school boards with the funds necessary to make payments to eligible employees, equivalent to \$1,200 per FTE based on the board's 2014-15 Appendix H. The funding generated will be distributed to individual eligible employees on the following basis.

- The following rules govern the allocations:
 - a. An eligible employee is one who was employed by the board in 2012-13 and/or 2013-14.
 - b. The sum that is paid to an eligible employee shall be apportioned so that a person who worked in only one of the 2012-13 or 2013-14 school years shall receive half the amount that is to be paid to an eligible employee who worked in both of the 2012-13 and 2013-14 school years.
 - c. An eligible employee currently on a leave of absence identified in Part XIV of the *Employment Standards Act* who meets the criteria outlined in items (a) and (b) above shall be entitled to payments on the same basis as outlined in item (b) above.
 - d. An eligible employee who was on a leave of absence identified in Part XIV of the *Employment Standards Act* in the 2012-13 or 2013-14 school years and who meets the criteria outlined in (a) and (b) shall be entitled to payments on the same basis as one who was working during 2012-13 and 2013-14.
- The payment to eligible employees shall be taxable and would be included on T4s as employment income, but would not count toward pensionable earnings. The payment is subject to Employment Insurance (EI), Canada Pension Plan (CPP), Employer Health Tax (EHT), and income tax withholding.

The Ministry will flow the necessary funds to school boards to administer the payments through a transfer payment agreement.

Where payments to current or former non-unionized employees are not successful (e.g., unsuccessful deposits or uncashed cheques), any unspent funds will be returned to the Ministry following the expiration of the transfer payment agreement. Further details regarding implementation and timing of payments will be communicated shortly in the transfer payment agreement.

If you require further information, please contact Brad Partington, Manager, Labour and Finance Implementation Branch at 416-326-3804 or brad.partington@ontario.ca.

Original signed by:

Andrew Davis
Assistant Deputy Minister
Education Labour and Finance Division

cc: Directors of Education
Doreen Lamarche, Executive Director, Education Finance Office
Romina Di Pasquale, Director, Labour and Finance Implementation Branch
Brad Partington, Manager, Labour and Finance Implementation Branch
Isabelle Girard, Directrice générale, Association des conseils scolaires des écoles publiques de l'Ontario
Benoit Mercier, Directeur général, Association franco-ontarienne des conseils scolaires catholiques
Nick Milanetti, Executive Director, Ontario Catholic School Trustees' Association
W.R. (Rusty) Hick, Executive Director, Ontario Public School Boards' Association