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FOCUS is published as an information newsletter and is intended for guidance; however, before acting on any information contained in **Focus**, teachers should contact a member of the Federation administrative staff.

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FOCUS



Expanded Authority for Adjudicators

In 1995, the Supreme Court of Canada released two decisions which have had a major impact in the area of unionized labour. Until that time, only the express words which appeared in a Collective Agreement could be the subject of a grievance. Other disagreements between the Employer and an employee had to be resolved before the courts. Now, any matter upon which the parties disagree, if it can even be implied to fall within the Employer / employee relationship, must be decided by way of a grievance and adjudication. The courts will decline to hear and decide any matter of which its essential character relates to an employment situation.

The authority of adjudicators who decide grievances has thus been expanded. They now have jurisdiction to give interpretation and application to any public legislation which has some bearing on the Employer / employee relationship. For instance, this would include the Charter of Rights and Freedoms and the Human Rights Act.

Furthermore, adjudicators now have the power to grant financial awards against the Employer to compensate grievors for a variety of losses and damages.

The New Brunswick Teachers' Federation (NBTF) has recently been successful with a grievance whereby the adjudicator has decided that Policy 701 is to be considered as incorporated in the Collective Agreement. Such a decision is possible because of the Supreme Court of Canada cases. The adjudicator concluded that the respondent teacher's rights pursuant to Policy 701 had not been properly granted during the investigation process. Such rights include being given sufficient time to prepare for the interview/questioning by the investigator. This means the teacher must be given enough details about the complaint and time to properly respond to the allegations. Then there must also be time to seek representation of the teacher's choice to accompany him/her at the interview. The decision also awarded the grievor financial compensation for distress and emotional trauma. This happens to be a first for a member of the NBTF.



Tuesday, May 16, 2006 is Census Day!

Every five years Statistics Canada conducts a national Census of Population.

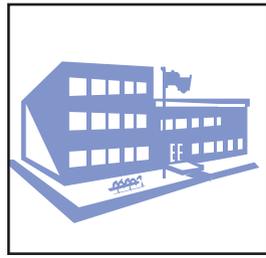
The national census provides a unique source of information about Canada and its population. The census is the primary source of reliable, detailed data for specific groups such as lone-parent families, seniors, ethnic groups, workers by industrial and occupational categories, and immigrants. The census provides data for areas as small as a city neighbourhood or as large as the country itself. Because the census is conducted every five years and the questions are similar, it is possible to compare even subtle changes that have occurred in the demographics of Canada's population over time.

(See page 3 for article)



Article 45

Transfers in the Context of School Closures and School Reorganization



Every year transfers can occur from one school to another as a result of a reorganization or a reduction in the number of students. The following explains the transfer provisions of Article 45 of the Collective Agreement.

Transfers by Mutual Agreement

Generally, when the Employer is faced with the necessity of transferring a number of teachers from one school, it may issue a general call for transfers by mutual consent. The Employer usually tries to accommodate most transfers in this fashion. When the number of requests for mutual transfers is equivalent to the number of transfers required, the issue may be resolved regardless of how seniority usually applies.

In some cases, transfers by mutual consent may result in the “bumping” of teachers from a school where no transfers may have been previously required. This is not necessarily “bumping” in the sense that unions in other sectors refer to it. For example, if a school closes, the Employer may decide to transfer all the teachers from that school to the school where the students are being transferred. This may result in a surplus of teachers in the latter school thereby causing transfers that may be done by mutual consent or by the application of Article 45 on the basis of seniority.

In the case of transfers by mutual consent, the Employer may set requirements and standards that would not otherwise apply since the Employer has the discretion to accept or reject the mutual transfer. If there is a choice to be made in the granting of transfers by mutual consent, the Federation considers that seniority should be an important factor. However, the Employer may choose other factors such as the distance from the place of residence to the place of work, qualifications and/or experience, etc. If, on the other hand, the number of requests for transfers by mutual consent is less than the number of transfers required, then the following provision applies:

45.03 “...In any such case, the Director of Education shall transfer the teacher who has the least seniority in the School District before any other teacher in his/her school, providing the teachers to remain on staff are capable of satisfactorily fulfilling the requirements of the positions to be maintained in the school and providing the teacher to be transferred is able to satisfactorily fulfill the requirements of the position to which he/she is being transferred.”

Analysis of the Terminology Involved

“Seniority” - As per Article 53, seniority is all service under contract with any district, be it a B, C, D or E contract.

Please make sure to read Article 53 to find out how to have all seniority recognized, more so if a teacher has changed district. The agreement also calls for the Employer to post the seniority list in all the schools in the district so that you may be able to determine your relative position on the district list. Finally, seniority applies to the seniority in the district and not in the school.

“Providing the teachers who remain on staff” - The Federation has always taken the position that other teachers on staff who may not be involved in the transfer discussions may have to be reassigned to accommodate the seniority rights of others. In other words, the question may not necessarily be: “Can you satisfactorily fulfill the position of someone in the school with less seniority?” but rather, “Can anyone in the school satisfactorily fulfill the position of the least senior teacher to accommodate the seniority of others?”

“Satisfactorily” - This is the term in Articles 45 and (also Article 48 – Layoffs and Recall) which has no doubt been the most often challenged before adjudicators. These challenges have resulted in the general acceptance by both parties of the following principles:

1. Adjudicators will not intervene in the Employer’s decisions affecting teacher qualifications unless there is bad faith, discrimination or unless the decision is arbitrary or unreasonable.
2. What is “satisfactory” in certain situations may not be satisfactory in others.
3. “Satisfactorily” equals minimum qualifications and/or appropriate experience in the given subject.
4. The onus is as much, if not more, on the Employer to show that the employee could not satisfactorily fulfill the requirements of the position; the employee with the greatest seniority has a right to the position even if a less senior employee is clearly more qualified.
5. The Employer is not required to reassign the whole staff to accommodate seniority.
6. The establishment of qualifications for a given position or the school organization must not be used to defeat seniority rights.
7. The Employer must make a fair assessment of the qualifications of any employee involved in a transfer or layoff situation.

When the Employer has done a proper assessment and has been consistent in the decisions taken in this area, arbitrators will hesitate to intervene unless the decision is arbitrary, discriminatory or in bad faith.

(Article continues on page 7)

New Brunswick Teachers and the 2006 Census

Tuesday, May 16, 2006 is Census Day. On this day, everyone in Canada will "count themselves in" when they complete and return their 2006 Census questionnaire.

Every person, young and old, will be counted in the 2006 Census. Information on your census questionnaire, combined with the information for more than 32.5 million other people, will provide a detailed picture of Canadian society that will be used in making decisions-about your neighbourhood, your community, your province and the country as a whole.

Census data provides valuable information. For example, there were 12,830 employed teachers and professors in the New Brunswick labour force in 2001 (8,225 women, 4,605 men). Other interesting data from the 2001 Census, concerning the province's teachers, includes the following:

Elementary school and kindergarten teachers

- _ There were 5,520 employed elementary school and kindergarten teachers (4,580 women, 940 men).
- _ The average age of elementary school and kindergarten teachers was 42.0 years (41.6 for women, and 43.6 for men).
- _ During the week prior to the 2001 Census, elementary school and kindergarten teachers worked an average of 39 hours.
- _ In 2000, the average annual income for elementary school and kindergarten teachers was \$34,913 (\$33,364 for women, \$42,400 for men).

Secondary school teachers

- _ There were 3,325 employed secondary school teachers (1,780 women, 1,550 men).
- _ The average age for secondary school teachers was 41.2 years (40.1 for women, 42.6 for men).
- _ During the week prior to the 2001 Census, secondary school teachers worked an average of 40 hours.
- _ In 2000, the average annual income for secondary teachers was \$36,039 (\$33,066 for women, \$39,603 for men).

Provinces and communities depend on Census data for:

- _ planning new schools and day-care centres
- _ planning education and training programs, including those for postsecondary and adult education programs
- _ developing and monitoring programs to benefit Canadians with learning disabilities.

More information on the 2006 Census is available at www.census2006.ca, or by calling the Census Help Line, free of charge, at 1 877 594-2006 starting May 1st, from 8 a.m. to 9 p.m.

Census information is also a valuable tool for student and teacher research projects. A 2006 Census Teacher's Kit has been developed that contains eight activities (teacher-ready), divided into three suggested grade levels: elementary, intermediate, and secondary. The activities have been designed to create awareness and understanding about the importance of the census and the information it will provide.

The 2006 Census Teacher's Kit is available at www.census2006.ca, or it can be ordered by fax: (613) 951-0930, by e-mail: censuskit@statcan.ca, or by mail: Statistics Canada, Census Communications, Ground Floor C-7, Jean Talon Building, Ottawa ON K1A 0T6.

As a teacher you can help make the 2006 Census a success. Please ask your students to take home the census message that it's important for everyone to "count themselves in" on Tuesday, May 16, 2006!



Authority and Responsibilities of SPR's

The Collective Agreement, signed in 1998, eliminated the positions of Department Heads and Subject Coordinators and introduced the position of SPR's. The intent was to achieve more flexibility with regards to the duties and assignments given to the new positions. The previous positions were only found at the High School level and the scope of duties was quite limited and traditional. Since then, SPR's are appointed to all school levels and some have assignments or projects which are very non-traditional in terms of what Department Heads did. Still, most SPR's continue to exercise much of the past Department Heads, particularly at the High School level.

According to Article 29 of the Collective Agreement, there are three types of positions of responsibility, namely: Principal, Vice-Principal and Supplementary Positions of Responsibility (SPR). The article further states that the appointment of a teacher to an SPR is done by the Director of Education for a term to be determined by the nature and scope of the assignment.

Thus, SPR's hold the delegated authority to fulfill the duties as assigned. Some SPR's are assigned duties which do not involve "supervision" of teachers. Such an example would be an SPR responsible for technology support in a school. That SPR would provide services and advice to teachers, but would not have any "supervisory" authority over any teacher.

For others who are assigned duties which closely resemble what the Department Heads used to perform, they would have a certain level of "supervision" over teachers in a certain area. If one is appointed as SPR for Math and Sciences in a school, then all the teachers who teach these courses fall under the responsibility of that SPR.

No SPR can act in the Employer's capacity. Only the district office can reprimand a teacher in a formal way or impose a disciplinary measure. An SPR can make a request, give guidance and evaluate teachers. They should however afford teachers their academic and pedagogical discretion and freedom.



Nevertheless, they could and should intervene if the proper curriculum is not being followed or if the teaching methods or tools have since completely changed and would now be unacceptable. Any SPR who makes a suggestion or request of a teacher who does not bring about necessary changes should speak to the school's Principal or Vice-Principal for their advice or intervention.

Depending on the mandate and nature of the assignment of the SPR, the above descriptions may vary from these broad explanations. Please do not hesitate to call any member of the Federation administration staff for more information.





Group Insurance
Assurance collective

NEWS FROM THE NBTF GROUP INSURANCE TRUSTEES

Johnson Inc. provides scholarships and academic grants in the amount of \$1000 for members and dependents of the clients of Johnson Inc. The scholarships are to assist students beginning post-secondary studies following the completion of high school and the academic grants are for those returning to full-time post-secondary studies following an absence of two or more years. Completed applications are due by September 15th and the appropriate forms can be downloaded from www.johnson.ca. Reminders will be included in the NBTA and AEFNB newsletters in June.

Johnson Inc. is pleased to announce that the following NBTF member's dependents were granted a scholarship for the academic year 2005-2006:

Serena Sanford, Geoffrey McCausland, Diane Toner, Mark Trueman, Julie Beaulieu.

The following members received an academic grant for the academic year 2005-2006: **Eric Robert, Patrick Steeves, Suzanne Steeves.**

Johnson Inc is proud of our partnership with the New Brunswick Teachers Federation and wish the scholarship and academic grant recipients the best of luck in their studies.



Pictured left to right: Serena Sanford, scholarship recipient, Dale Weldon, Johnson Inc. Area Manager and Eric Robert, Academic Grant recipient.

Mr. Robert teaches math at Leo Hayes and is completing a qualifying year for the Master's degree in mathematics at UNB. Miss Sanford is in the science program at UNB, and is planning on a career in physiotherapy. She is choosing a major in Biochemistry.

Health and Dental Plan Premiums Reinstated

As you have probably noticed, the health and dental plan premium holiday for January and February is over. The normal premiums have been reinstated in March. One must note that from March to December 2006, the 10 % increase applied to the health plan and the 6,3% increase applied to the dental plan will not be reflected in your monthly premiums because they are covered by the surplus. It is hoped that the

2006 experience will prevent that these increases be reflected on the 2007 premiums. The Trustees will learn more on the 2005 experience at their next meeting in April. We will advise you of the results in the next newsletter.

Meeting in February

Because of bad weather, the Trustees had to cancel their meeting in February. They will meet on April 20 and 21 to look at the following items:

1. Within a Market study which will occur during 2007, (every five years) all the major insurance companies working in New Brunswick will be invited to forward their submissions to carry our various plans. As members, you will also be invited to forward your suggestions to us concerning the various benefits within the plan.
2. A sub-committee is still continuing to study possible ways to relieve the financial burden of the premiums paid by retired teachers, more so, the retired teachers 65 and over. When the sub-committee submits its report, the Trustees will then decide what to do.
3. There will be a Trustees' conference for the Atlantic Provinces at the beginning of June with our Province being the host. The theme will be wellness activities for teachers and we will be comparing what is taking place in that area throughout the provinces. There will also be a comparison of the counseling services between the four Atlantic Provinces. The conference will be in the Tracadie-Sheila region and will have approximately fifty (50) participants. This is an opportunity for our Trustees to stay up-to-date with what is happening in the other provinces and to exchange as far as the benefits and the experience of various insurance plans.

Communication

This article is within the objectives set by Trustees to have open communications with various groups of its members and to invite suggestions and comments with regards to the services and various group insurance plans. Do not hesitate to communicate with us for whatever purpose in the area of Group Insurance.

Claims: 1-800-442-4428

Administration: 1-800-851-5500



Educational Leave Granted to 67 teachers

Sixty-seven teachers have been granted educational leave for the 2006-07 school year.



The announcement was made by Education Minister Madeleine Dubé, Indu Varma, president of the New Brunswick Teachers' Association, and Louise Landry, president of l'Association des enseignantes et des enseignants francophones du Nouveau-Brunswick.

The educational leave program represents an investment by the Department of Education of \$2,242,000. It is part of a negotiated benefit in the Collective Agreement.

"Teachers, as professionals, strive hard to upgrade their qualifications, improve their skills, and build on their knowledge base in order to provide quality education to our children," Varma said. "The educational leave program supports teachers in their endeavours to grow professionally, and to stay current with their knowledge and skills."

"Teachers taking educational leave in 2006-07 will have an ideal opportunity to acquire more in-depth knowledge in a variety of fields, and the entire school system will benefit from that knowledge when they return to the classroom," Landry said. "Because their profession is constantly becoming more demanding and the number of challenges they face is growing, teachers welcome such opportunities to explore new avenues in education."

Educational leaves vary from four months to a full year, and are granted to a teacher wishing to devote up to one year of study or study/travel for the purposes of retraining, specialization or professional growth. Several priority areas were addressed in the leaves, including administration leadership, masters of education with specialization in resource and methods, and training in the subject fields of literacy, mathematics, science training, and special needs and exceptionalities.

Applications for educational leave are reviewed by a committee of representatives from the Department of Education, district superintendents, the New Brunswick Teachers' Association, l'Association des enseignantes et des enseignants francophones du Nouveau-Brunswick, and the New Brunswick Teachers' Federation.

The names of the recipients are published in the Association's newsletter.

Congratulations to all!

The New Brunswick Teachers' Federation Board of Directors Approves the 2006-2007 Budget



At its meeting on April 6, 2006, the NBTB Board of Directors approved the budget for the next fiscal year which begins July 1, 2006 and ends June 30, 2007.

The figures are the same as appeared in a Communiqué from the Co-Presidents which was sent to all teachers on March 16, 2006.

The dues to the General Administration Fund will increase by \$20.00 per year.

There will also be a special contribution of \$20.00 once during the next year to build up a contingency fund in view of the next round of bargaining.

The regular dues for the NBTB had not increased since 2002.

In the picture, the Finance Committee President, Sylvie Basque, presents the budget details to the Board of Directors.

Article 45
Transfers in the Context of School
closures and School Reorganization
(Article continues from page 2)

There is one general rule that can help determine whether you have been transferred in accordance with the provisions of Article 45. When all the transfers are completed, if you look at your former school and find that there is someone there with less seniority than yourself in the district who is fulfilling a position which you could satisfactorily fulfill, then you may have a legitimate grievance.

Regardless of the qualifications and experience of the persons with more seniority who have been kept on, there is no grievance possible unless the seniority has not been respected. Although the decisions may be questioned on the basis of pedagogical or educational principles, if seniority has been respected they will not be challenged. They may, however, help determine if the Employer has been arbitrary if, in other circumstances, the same Employer sets higher requirements and does not honour the seniority provisions. The Employer could then be shown to be inconsistent.

An example of this has been the issue of specialists in Physical Education at the primary level. In some districts, it has been decided that the teaching of Physical Education at the primary level is assigned to homeroom teachers. In those districts, the Employer can no longer claim that special qualifications are required to teach Physical Education at that level when the seniority provisions apply.

It has been generally recognized that some teaching assignments require special qualifications. These specialist areas are usually Music, Physical Education, Arts, Methods and Resources and in some cases, Special Education, English /French Second Language. Nevertheless, each situation varies and it may well be that in some circumstances, a teacher may be able to show that his or her experience and/or qualifications are such that the minimum requirements can be deemed to have been met.

What To Do?

If you are in a teaching situation which you expect may be the subject of a transfer or a major reassignment within your own school, our advice would be to notify your school district (transfer) or your school administration (reassignment within the same school) and to indicate your preferences in order of priority. In that sense, you will at least provide your district or your school administration an opportunity to accommodate those preferences.

Finally, it is to be noted that the above analysis applies to transfers from one school to another only. Reassignments

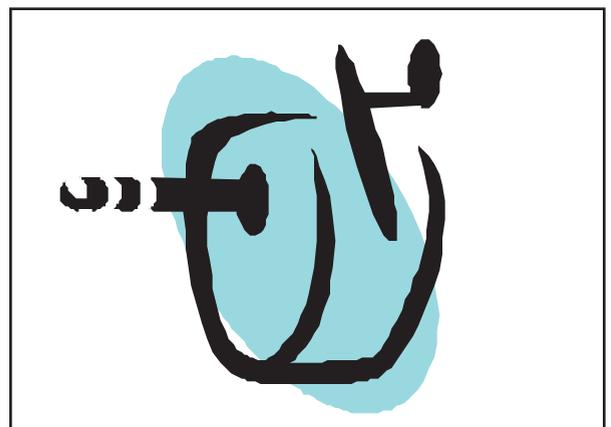
within the same school are not subject to the application of Article 45 and are generally done at the discretion of the school administration. This having been said, the decisions at the school administration level can be reviewed by the superintendent's office subject to the procedures outlined in Policy 43 of the Federation. This policy outlines procedures that should be followed by teachers who find themselves in a reassignment situation that they find very difficult or totally unreasonable. That same policy also encourages principals and school administrators in general not to communicate or make the decision to transfer a teacher from one school to another; this is a managerial decision that should be communicated and made at another level.

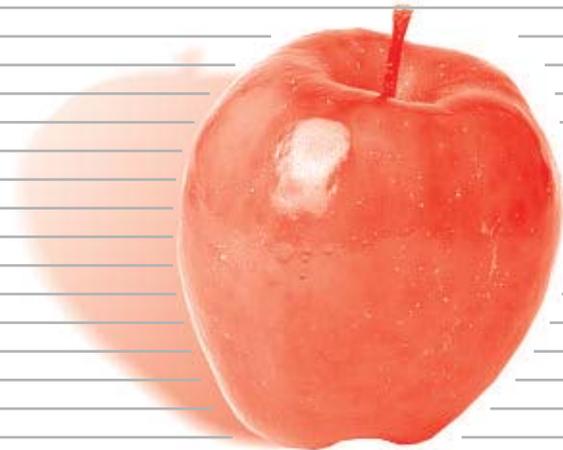
It is of course recognized that principals must provide the superintendents with information on the positions that are available or required in the school and of their perception as to those requirements. The decision, however, must lie with the persons who are in managerial positions, not principals. The Federation is confident that principals are fully aware of this situation and are also respectful of the wording and interpretations of Article 45 of their Collective Agreement.

On a final note, for transfers and layoffs in cases of job sharing, seniority must be applied according to Article 53.08:

“For the purposes of Articles 45 and 48, the seniority of the teacher with the greatest seniority participating in job sharing shall prevail for the purpose of transfer and layoff provided both teachers are to continue job sharing as a team.”

For more information on the application of Article 45, you may contact Robert Gagné, Kevin Sheehan or Marilyn Boudreau at 506-452-1736.



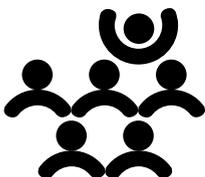


TEACHERS' RIGHTS

**Dealing with Harassment by
Students, Parents and other Adults**



FÉDÉRATION DES ENSEIGNANTS
DU NOUVEAU-BRUNSWICK



AEFNB



Public Legal Education
and Information Service
of New Brunswick

A new pamphlet entitled **Teachers' Rights, Dealing with Harassment by Students, Parents and other Adults** has now been distributed to all teachers. Other interested persons are asked to visit the Federation Website at www.nbtf-fenb.nb.ca and access the link to PLEIS-NB. From there, they may download a copy of the pamphlet.

Teachers who are concerned about a situation in which they feel harassed or intimidated are to contact their Employer immediately. If the situation continues or if the Employer's actions fall short of addressing the situation, teachers are asked to contact any member of the NBTA, AEFNB or Federation administrative staff.

Teachers are also invited to read the article on *Parent Teacher Communications* that appeared in the last issue of **FOCUS**. That issue is also available on the Federation Website.



A presentation ceremony was held at the NBTF building in Fredericton on Friday, February 24, 2006 for the release of the pamphlet on Teachers' Rights - Dealing with Harassment by Students, Parents and other Adults.

From left to right: Judith Keating from PLEIS-NB, Indu Varma, NBTA President and Louise Landry, AEFNB President, at the presentation ceremony.