

IN THE MATTER OF A CONCILIATION BOARD
PURSUANT TO THE *NEW BRUNSWICK PUBLIC SERVICE LABOUR RELATIONS ACT*

BETWEEN:

The New Brunswick Teachers Federation

(“Federation”)

- and -

The Province of New Brunswick

(“Province” or “Employer”)

Conciliation Board Chair: Michelle Flaherty
Employer Nominee: Ron MacLeod
Federation Nominee: Joël Michaud, KC

Date: July 17, 2023

APPEARANCES

For the Federation

Kerry Leopkey
Caroline Foisy

For the Employer

Jean-Yves Bernard
Jennifer Johnson

REPORT OF CONCILIATION BOARD

1. The New Brunswick Teacher's Federation is the exclusive bargaining agent for the approximately nine thousand teachers employed in New Brunswick's public education system. The Collective Agreement between the Federation and the provincial Treasury Board establishes the working conditions for teachers employed by the Province's seven school districts. Of the seven school districts, three belong to the Francophone sector and four to the Anglophone sector.
2. The term of the parties' most recent collective agreement expired on February 28, 2021. Since the Notice to Bargain was delivered on February 3, 2021, the parties have met approximately 20 times, in party-to-party negotiations and as part of a conciliation process. Although the parties reached agreement on certain issues, they were unable to completely resolve the terms for the renewal of the Collective Agreement.
3. This Conciliation Board was appointed pursuant to section 51 of the *New Brunswick Public Sector Labour Relations Act*, RSNB 1973, c P-25 ("Act"). The Board met with the parties on June 3, 4, and 5, 2023 to assist them in reaching an agreement. While several issues were provisionally resolved during these meetings, the parties did not resolve the issues of wages and certain other matters remained outstanding.
4. Accordingly, the Board conducted a hearing on June 19, 2023. The Board encouraged the parties to focus their hearing submissions on the outstanding monetary issues, but without limiting the scope of their submissions on other matters.
5. In keeping with article 49 of the *Act*, this report includes the Board's recommendations for the settlement of the dispute.

Relevant Factors

6. In preparing its recommendations, the Board has been guided by the principle of replication. We have considered the evidence provided by the parties in light of the criteria set

out by Arbitrator Shime in *British Columbia Railway and General Truck Drivers and Helpers Union, Local 31*, Re 1976 CarswellBC 1745 (“Shime Criteria”). Although the parties disagree about how they should be interpreted and the relative weight they should be given, there is no dispute that the Shime Criteria are the relevant and appropriate basis for assessing fair wage settlements in a public sector case, such as the one before us.

7. Arbitrator Shime held that public sector employees should not be required to subsidize the community by accepting substandard wages and working conditions. He also set out the following criteria for determining public sector wages: (a) the cost of living; (b) productivity; and (c) internal and external comparators.

8. In applying these criteria, we have been mindful of the current economic climate. The evidence provided by the parties establishes that high levels of inflation have impacted real wage rates in the Province and across the country. In making its recommendation, the Board considers inflation to be a relevant factor. However, as Arbitrator Hayes explained in *Homewood Health Centre v. UFCW, Local 75*, 2022 CanLII 46392, in the current climate, the harsh reality is that no one can expect to be fully immunized from the negative impacts of extraordinary inflation. Our recommendations do not fully offset the impact of extraordinary inflation on teachers’ wages. At the same time, however, it is important to stress that teachers must not be subsidizing the province’s treasury through substandard wages.

9. There is no dispute that there has been strong revenue and economic performance in the Province over the past two years. The Province did not advance an inability to pay argument, although it argued that economic uncertainties remain and that economic prudence remains important.

10. The evidence before us establishes that it has been challenging for the Province to recruit qualified teaching personnel. The Minister of Education and the Francophone School District South have both made public comments about recruitment and retention challenges, most notably for francophone teachers. In 2021, the Province issued over 1000 local teacher’s permits, hiring individuals without a teaching certificate or an interim teaching certificate. This shows

there is a shortage of qualified personnel because, under regulation, these permits may only be issued where the school district is unable to hire qualified teachers. In addition, it has been challenging for the Province to hire qualified (or even unqualified) teachers to replace absences. For example, in January and February 2023, the anglophone sector had approximately 1000 unfilled absences, where a teacher was absent from work and no substitute was found to take that teacher's place.

11. The Board has also considered the relevant comparators, notably other teachers' bargaining units in Atlantic Canada. The evidence establishes that New Brunswick teachers in the early stages of their careers are paid less than their counterparts in other Atlantic provinces. Moreover, general economic increases will be important to ensure that salaries for all New Brunswick teachers remain competitive.

Recommendations

12. With these factors in mind, the Board makes the following recommendations:
- a. The Collective Agreement be for a duration of five years.
 - b. All matters resolved between the parties be incorporated into the Collective Agreement.
 - c. All matters provisionally resolved between the parties during Conciliation be incorporated in the Collective Agreement.
 - d. As of March 1, 2023, the current salary grid be modified by removing step 1, and the present incumbents above that step shall continue on the grid at the same level and progress through the levels in the normal course.
 - e. As of March 1, 2023, the current salary grid be modified by adding a step at each certificate level, which shall be 1.5% above the existing step 11 and which shall be the new step 11.

f. General economic increases as follows:

March 1, 2021: 2%

March 1, 2022: 2%

March 1, 2023: 3%

March 1, 2024: 2%

September 1, 2024: 2%

March 1, 2025: 2%

September 1, 2025: 2%

g. These general economic increases will also apply to the responsibility allowances.

h. As of the date of ratification, Article 61.03(c) be modified so that a Schedule D contract is awarded to a supply teacher on the first day of the fourth month of continuous service in the same assignment.

i. As of the date of ratification, supply teachers be compensated at the regular rate of pay beginning on the first day of the third month of continuous service in the same assignment. For clarity, the right of recall is unchanged by the Board's recommendation and would apply on the first day of the fifth month of continuous service in the same assignment.

j. Within 45 days of the date of this report, the Province respond to the Federation's proposed letter of understanding regarding secondments and leaves of absence.

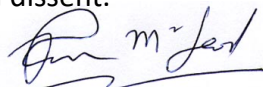
13. Any provisions not specifically referred to in this Recommendation remain unchanged.

Signed on July 17, 2023.



Michelle Flaherty, Chair

I dissent.



Ron MacLeod, Employer Nominee

I dissent.



Joël Michaud, KC, Union Nominee