

# 2019 CENTRAL BARGAINING: BACKGROUND

March 29, 2020

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## CENTRAL BARGAINING: GENERAL INFORMATION

Education sector bargaining is conducted under legislation called the *School Boards Collective Bargaining Act, 2014* (SBCBA). The SBCBA requires bargaining to take place at two levels (or “tiers”):

- **centrally** (provincially) between ETFO and school board bargaining agencies; and
- **locally** between ETFO and individual school boards.

The provincial government is required to participate in central bargaining.

ETFO conducts provincial bargaining at two central tables:

- the **Teacher/Occasional Teacher (OT) Central Table** for its teacher and occasional teacher members. ETFO bargains with the Ontario Public School Boards’ Association (OPSBA) at this central table; and
- the **Education Worker Central Table** for its DECE, ESP, PSP and other education worker members. ETFO bargains with the Council of Trustees’ Associations (CTA) at this central table.

On **June 3, 2019**, ETFO served notice to bargain on OPSBA, the Ontario Catholic School Trustees’ Association (OCSTA) and the government.

On **Tuesday, June 18, 2019**, ETFO representatives had their first meeting with representatives from OPSBA, the Council of Trustees’ Associations (CTA) and the government to discuss bargaining ground rules and begin to determine the scope of negotiations at ETFO’s Teacher/Occasional Teacher and Education Worker Central Tables.

All ETFO collective agreements expired as of August 31, 2019.

## ETFO BARGAINING GOALS FOR 2019 CENTRAL BARGAINING

In each round of negotiations, ETFO’s bargaining goals are established through the following four-step process:

- ETFO members are surveyed about their bargaining priorities;
- ETFO’s Collective Bargaining Committee develops draft bargaining goals and forwards those draft goals to the Provincial Executive;

- ETFO's Provincial Executive reviews the draft bargaining goals and forwards them to ETFO's Representative Council;
- Representative Council, which is composed of elected local leaders, approves ETFO's bargaining goals.<sup>1</sup>

The surveying process for the 2019 round of bargaining was conducted in **the fall of 2018** and included an online survey, telephone survey and member focus groups. In February 2019, Representative Council approved ETFO's 2019 Bargaining Goals.

## TEACHERS/OCCASIONAL TEACHER MEMBERS

- **The top priority for ETFO teacher and occasional teacher members was negotiating additional special education supports.**
- Other bargaining priorities for teacher and occasional teacher members were real increases to all forms of compensation (including benefits funding), class composition provisions and class size caps in all grades, improvements to occasional teacher hiring practices, and improvements to health and safety protection (particularly around the area of classroom violence).

## EDUCATION WORKER MEMBERS

- **The top priority for DECE, ESP, PSP and other education worker members was negotiating a real increase to hourly rates of pay and all forms of compensation, including benefits funding.**
- Other bargaining priorities were additional special education supports, class composition, lower Kindergarten class size caps, increased job security and improvements to health and safety protection (i.e., around classroom violence).

Workload/working conditions were also identified by ETFO members as a bargaining goal. This bargaining goal is being addressed in local bargaining.

## FORD GOVERNMENT SIGNALS ADDITIONAL CUTS AND RESTRICTIONS PRIOR TO THE START OF NEGOTIATIONS

Prior to the start of bargaining, the Ford government made cuts to education funding for the 2019-2020 school year. Those cuts focused on increasing secondary class size averages and reducing funding for special education supports negotiated by education sector unions (including ETFO) with the previous government in 2017. The government also increased the Grade 4-8 class size average in thirteen out of 31 public school boards.

In addition, the Ford government signaled it would be considering additional education funding cuts and "efficiencies" during the upcoming bargaining round. Some areas identified by the government included:

### Potential Changes to the Kindergarten Model:

- In March 2019, the Minister indicated **her government was "reviewing all of our options" around Kindergarten** for the 2020-2021 school year. There were widespread reports that the Ford government was looking to move away from the current Kindergarten staffing model of a teacher and a designated early childhood educator (DECE) in order to achieve cost savings.<sup>2</sup>
- During two education "consultations" conducted in the first half of 2019, the Ford government indicated it was not opposed to unilaterally changing the legislative and regulatory framework that supports the current model of Kindergarten and, specifically, altering the format of the teacher/DECE team to reduce education expenditures.
- Based on Kindergarten student enrolment in 2018-2019 (approximately 175,930) and the funding model for that enrolment level, a change to Kindergarten where the teacher would be removed from the teacher/DECE team and be replaced by a second DECE would equate to **a loss of approximately 6,880 ETFO teaching positions.**

<sup>1</sup> Details about the four-step process to develop bargaining goals can be found on ETFO's *Collective Bargaining Website* at <https://etfocb.ca/our-goals/goal-setting/>

<sup>2</sup> **Ford government "reviewing all options" on full-day kindergarten.** *Toronto Star* (March 8, 2019). <https://www.thestar.com/politics/provincial/2019/03/18/ford-government-reviewing-all-options-on-full-day-kindergarten.html>

- Another option being considered by the Ford government was the removal of the DECE from the Kindergarten classroom and a return to the teacher-only Kindergarten model. Such a change would result in **a loss of all ETFO DECE member positions (i.e., approximately 2,215 permanent DECE positions and approximately 843 occasional DECE positions).**

#### **Erosion of Special Education Funding:**

- ETFO negotiated special education funding as part of collective agreement extensions in 2017. That special education funding was eliminated by the Ford government as of August 31, 2019.<sup>3</sup> The funding included:
  1. **Teacher/Occasional Teacher Special Education System Investment Funding** (a total of approximately \$49.4 million for the 2017-2018 and the 2018-2019 school years);
  2. **Teacher/Occasional Teacher Priority Funding** (a total of approximately \$39 million for the 2017-2018 and the 2018-2019 school years); and
  3. **Special Education System Investment Funding for ETFO Education Support Personnel (ESP) and Professional Support Personnel (PSP) members** (a total of approximately \$923,000 for the 2017-2018 and 2018-2019 school years).
- The three funds were used to hire additional teachers and education workers to support special education, early years special education needs, Indigenous students, ELL students, student well-being and “at-risk” learners. The elimination of these funds meant a significant number of ETFO teaching and education worker positions were not renewed for the 2019-2020 school year.

#### **Attacks on Sick Leave:**

- Several news outlets reported that the Ford government was “seriously examining” the allocation of teacher, long-term occasional teacher, DECE, ESP, PSP and other education worker sick days.
- Minister of Education Lisa Thompson confirmed that education sector sick leave days was something the government was monitoring and wanted to address at the central bargaining table.<sup>4</sup>

#### **Junior/Intermediate Class Size Average Standardization:**

- In March 2019, Minister of Education Lisa Thompson announced a phased increase of high school class size averages - from 22 to 28 – to be incorporated in Ontario’s class size regulation (Regulation 132/12: Class Size) and implemented in the 2019-2020 school year.
- The junior and intermediate (J/I) class size average in Ontario Regulation 132/12 was also either increased or decreased (depending on the school board) to a standardized class size average of 24.5.
- The Ford government’s standardization of the J/I class size average had the following impact on Ontario’s 31 public school boards:
  - **Thirteen** public school boards saw their class size average **INCREASE** for the 2019-2020 school year.
  - **Four** public school boards saw their class size average **DECREASE** for the 2019-2020 school year.
  - **The remaining fourteen** public school boards had pre-existing J/I class size averages of 24.5. Their class size average **REMAINED UNCHANGED** (i.e., did not increase or decrease) due to changes in class size regulations made by the Ford government.

#### **Imposition of Wage Restraint Legislation:**

- On November 7, 2019, the Ford government passed **Bill 124, the *Protecting a Sustainable Public Sector for Future Generations Act, 2019***. Bill 124 is wage restraint legislation that imposes a series of 3-year caps on compensation (e.g., salary, benefits) for a variety of public sector unionized and non-unionized workplaces.
- Bill 124 imposes a legislated limit 1% on any increases to salary during each 12-month period in a moderation period (i.e., a 1% increase per year for each year of a collective agreement).
- Bill 124 includes an exception to the 1% limit for situations where the cost to an employer to maintain an existing benefit at the same level increases.
- Collective bargaining around compensation for ETFO members was impacted by the restraints imposed by Bill 124.

<sup>3</sup> **Ontario marginally increases school board funding, but per-pupil amount drops.** CTV News (April 26, 2019). <https://www.ctvnews.ca/canada/ontario-marginally-increases-school-board-funding-but-per-pupil-amount-drops-1.4396534>

<sup>4</sup> **Teacher sick days on the bargaining table.** CityNews (May 16, 2019). <https://toronto.citynews.ca/2019/05/16/exclusive-teacher-sick-days-on-the-bargaining-table/>

- **On December 12, 2019, ETFO and three other education sector unions filed court challenges against Bill 124.** Given Bill 124's content and timing in the midst of negotiations for the renewal of collective agreements, the Ford government's legislation was seen as a direct attack on free collective bargaining under the *Canadian Charter of Rights and Freedoms*, as well as a violation of government's duty to bargain in good faith.<sup>5</sup>

## BARGAINING WITH THE GOVERNMENT, OPSBA AND CTA (AUGUST 2019 – MARCH 2020)

Central bargaining is a two-step process:

- The parties/participants agree on the list of items that will be discussed at the central table (i.e., "the central list");
- The parties/participants conduct central bargaining based on the agreed-upon central list.

ETFO's Teacher/Occasional Teacher and Education Worker Central Lists were finalized on August 23, 2019, and central bargaining began in late August 2019.

During the fall of 2019 the bargaining positions taken by ETFO, the government, OPSBA and CTA became clear and were shared with ETFO members in *ETFO Central Bargaining Bulletin #8* (published on November 8, 2019), as well as at school/worksite meetings held by ETFO Stewards:

- **Kindergarten:** Despite ETFO's repeated requests, the government refused to make a binding commitment in writing that it would maintain the current model of Kindergarten, which includes a teacher and a DECE;
- **Special Education and Priority Funding:** The government did not respond to ETFO's proposal to renew Teacher/Occasional Teacher and Education Worker special education and priority funding;
- **Increasing Supports for the Successful Integration of Students:** The government did not respond to ETFO's proposal to clarify the integration process and provide supports to ensure the successful integration of students in regular classrooms;
- **Addressing Classroom Violence:** ETFO's proposals for a common online reporting tool for violent incidents or release time during the instructional day to attend meetings and complete paperwork related to violent incidents did not receive responses from the government, OPSBA or CTA;
- **Improvements to J/I Class Size:** The government would not respond to ETFO proposals around reducing the J/I class size average of 24.5 or introducing a J/I class size cap;
- **Improvements to Kindergarten Class Size:** The government would not respond to ETFO proposals to reduce the Kindergarten class size cap, reduce maximum Kindergarten class sizes or ensure all Kindergarten classes were assigned both a teacher and a DECE regardless of class size;
- **Professional Activity Time for Education Worker Members:** OPSBA, CTA and the government would not respond to ETFO proposals to provide DECE, ESP and PSP members with 30 minutes of professional activity time per day to perform duties related to their role;
- **Professional Development/Learning Fund for Education Worker Members:** OPSBA, CTA and the government would not respond to ETFO's proposal to renew the \$2 million Professional Development/Learning Fund negotiated for the 2017-2019 Education Worker Extension Agreement;
- **Salary Increase of COLA plus 1%:** ETFO's bargaining positions included a salary increase of COLA (inflation) plus 1% in each year of a three-year agreement, as well as changes that would raise the daily occasional teacher rate. The government offered 1% per year in each year of a three-year agreement. (Bill 124).

In addition, the government, OPSBA and CTA put forward the following strips to elementary education funding and collective agreement entitlements:

- **Up to \$150 Million in Targeted Reductions:** The government demanded that ETFO teachers and occasional teachers agree to up to \$150 million dollars in reductions to public elementary spending. This would amount to a serious erosion of members' collective agreement entitlements and funding designed for elementary education;

<sup>5</sup> **Education Unions Launch Charter Challenge Against Ford Government.** ETFO Media Release (December 12 2019). <https://etfocb.ca/education-unions-launch-charter-challenge-against-ford-government/>

- **Local Class Size Language Strips:** Demands were made by OPSBA, CTA and the government that any language in local collective agreements putting limits on elementary class sizes needed to be removed;
- **Strips to Sick Leave Entitlements:** The government, OPSBA and CTA put forward proposals stripping sick leave for all permanent and long-term occasional members as follows:
  - Sick leave reduced from 11 days at 100% of salary to 9 days at 100% of salary. The subsequent 2 sick leave days would be payable at 75% of salary.
  - Short term disability days payable at 60% of salary (rather than the current 90% of salary).
  - There would be a five-day waiting period without pay (0% salary) before a member could access the short-term disability plan.
- **Eliminating fair hiring practices for occasional teachers:** OPSBA wanted ETFO to agree to delete all references to Regulation 274 in central and local collective agreements;
- **Funding that would erode ETFO members' benefits:** The government, OPSBA and CTA offered increased benefits funding to teacher, long-term occasional and education worker members' of 1% per year over a three-year period. That offer would have been far below what is required to sustain ETFO benefits at their current levels and would have meant an erosion of members' benefits.

During central bargaining meetings on December 16 and 19, 2019, representatives from ETFO were advised in clear and unequivocal terms that the government's bargaining team did not have the authority to negotiate funding to address classroom violence, special education supports, professional time or professional development/learning funding for education worker members. In addition, the government's bargaining team did not have the authority to offer sufficient funding to sustain ETFO members' benefit plan.

The government's bargaining team continued to demand up to \$150 million in reductions to elementary education spending, the removal of local class size language in local collective agreements, would not accept a proposal that Kindergarten model be maintained and continued to propose the elimination of fair and transparent hiring practices for occasional teachers.

It was evident that significant issues could not be addressed at the bargaining table at that time.

Bargaining resumed on January 29, 30 and 31, 2020. School board associations continued to put forward bargaining positions that, if accepted by ETFO, would undermine fair hiring practices under Regulation 274. The government continued to put forward funding proposals that, if accepted, would reduce special education and priority funding monies and that could not provide funding to sustain members' benefits.

Bargaining resumed on March 11, 2020. Bargaining ended on **Friday, March 20, 2020**, when tentative central agreements were reached at the Teacher/Occasional Teacher Central Table and Education Worker Central Table.

## WHAT WAS ACHIEVED BY ETFO DURING BARGAINING

1. **TARGETED ELEMENTARY FUNDING REDUCTIONS WITHDRAWN** - The government had demanded that ETFO teacher and occasional teacher members agree to up to \$150 million in reductions to public elementary spending. ETFO did not agree with funding reductions.
  - **RESULT BY MARCH 20: No reductions to public elementary spending or collective agreement entitlements are included in ETFO's 2019-2022 Tentative Central Agreements.**
2. **KINDERGARTEN MODEL PROTECTED** - The government indicated it was looking to change the Kindergarten model and, specifically, reviewing the Teacher/DECE team in an effort to realize cost savings. By February 2020, the government was making statements in the media that it supported the Kindergarten model but would not make a legally binding commitment in writing.
  - **RESULT BY MARCH 20: ETFO obtained an enforcement agreement in writing from the government to maintain the current Kindergarten model for the life of the central agreement. The agreement preserves almost 7,000 ETFO permanent teaching positions and about 3,000 ETFO DECE positions.**
3. **SPECIAL EDUCATION/PRIORITY FUNDING RENEWED** – By January 2020, the government was offering only about half of the funding ETFO had negotiated in 2017 with the previous government.
  - **RESULT BY MARCH 20: ETFO had negotiated a Supports for Students Fund that preserved 100% of special education and priority funding negotiated in 2017.**

4. **SICK LEAVE ENTITLEMENTS PRESERVED** - The government, OPSBA and CTA had proposed significant reductions to permanent and long-term occasional members' sick leave entitlements.
  - **RESULT BY MARCH 20: Sick leave entitlements remain status quo (i.e., 11 sick days at 100% of salary, 120 short-term disability days at 90% of salary).**
5. **SUSTAINABLE FUNDING FOR BENEFITS** – The government's proposal of 1% per year increases to benefits funding would have resulted in erosions to benefit levels.
  - **RESULT BY MARCH 20: Funding that will sustain benefits levels for the term of the collective agreement.**
6. **CLASS SIZE LANGUAGE IN LOCAL AGREEMENTS PRESEVED** – The government and school board associations sought to remove any language in local collective agreements that put limits on elementary class sizes.
  - **RESULT BY MARCH 20: School board associations and the government were no longer seeking the removal of elementary class size language in local collective agreements.**
7. **PROFESSIONAL DEVELOPMENT/LEARNING (PD/L) FUND FOR EDUCATION WORKERS INCREASED** – The government and school board associations were unwilling to increase PD/L funding for education worker members.
  - **RESULT BY MARCH 20: The PD/L Fund for ETFO education worker members was increased from \$2 million in 2017 to \$2.8 million in the 2019-2022 Education Worker Tentative Central Agreement. Education worker members will be able to access up to \$1,000 (prorated to FTE) to pay for professional learning/development.**
8. **NO CONCESSIONS REGARDING ONTARIO REGULATION 274 IN CENTRAL AGREEMENT** – OPSBA's and the government's proposals around Regulation 274 included repealing the regulation, as well as changing the regulation's interview process so that a school board could add its own candidates in addition to the five most senior, experienced candidates. ETFO would not agree to language in the central agreement that would erode seniority provisions around occasional teacher hiring.
  - **RESULT BY MARCH 20: The hiring practices for occasional teachers in Regulation 274 remain in force.**
9. **WAGE RESTRAINT LEGISLATION CAN BE CHALLENGED IN COURT BY ETFO** – In November 2019, the government interfered with the negotiations process by enacting legislation (Bill 124) that imposed 1% per year compensation caps.
  - **RESULT BY MARCH 20: An agreement was reached that allows ETFO to continue with its Charter Challenge against the government's wage restraint legislation.**

Throughout the 2019 round of central bargaining, ETFO repeatedly tabled proposals about **class size reductions in Kindergarten and J/I**. During the last week of negotiations ETFO continued to make proposals for class size improvements; the government reiterated it would not agree to funding improvements for elementary class sizes.

ETFO also repeatedly proposed a meaningful lump sum increase to the hourly rate paid to our education worker members. The government indicated that the compensation being sought for ETFO's 3,000 education worker members:

1. did not conform to the 1% per year wage cap delineated in Bill 124; and
2. would also need to be offered to CUPE's 55,000 and EWAO's 6,000 members, given the terms of agreements reached with those two unions in 2019.

As a result, the government would not agree to increased compensation for ETFO's education worker members.

## CENTRAL BARGAINING: OTHER EDUCATION SECTOR UNIONS

As of March 29, 2020, four major education sector unions have reached central agreements or tentative central agreements:

- **CUPE**
  - Represents approximately 55,000 Ontario public education workers

- Tentative agreement reached in October 2019; central agreement ratified by CUPE members in November 2019
- **Educational Workers' Alliance of Ontario (EWAO)**
  - Represents approximately 6,000 public education workers
  - Tentative agreement reached in December 2019; central agreement ratified by EWAO members in February 2020
- **OECTA**
  - Represents approximately 45,000 elementary and secondary teachers working in publicly funded English Catholic schools
  - Tentative agreement reached on March 12, 2020
- **ETFO**
  - Represents approximately 80,000 elementary teachers and occasional teachers, and approximately 3,300 education workers (DECE, ESP, PSP)
  - Tentative agreement reached on March 20, 2020

**As of March 29, 2020**, two major education sector unions continue to negotiate at their respective central bargaining tables:

- **AEFO**
  - Represents approximately 12,000 French-language elementary and high school teachers in both Catholic and public school boards
- **OSSTF**
  - Represents approximately 60,000 public high school teachers, occasional teachers and education workers