



**\*\*SPECIAL EDITION\*\***



## ETFO Bill 115 Charter Challenge

**FEBRUARY 2, 2022**



In September 2012, the Government imposed collective agreements on Elementary Teachers' Federation of Ontario (ETFO) members and other education sector workers through legislation called the *Putting Students First Act*, 2012, also known as Bill 115. In response, five unions – ETFO, Ontario Secondary School Teachers' Federation (OSSTF), Canadian Union of Public Employees (CUPE), Ontario Public Service Employees Union (OPSEU), and Unifor – challenged Bill 115 in Court, arguing that the legislation violated Canada's Charter of Rights and Freedoms.

In a landmark decision released on April 20, 2016, the Superior Court of Justice held that Bill 115 substantially interfered with collective bargaining contrary to s. 2(d) of the Charter. In his decision, Justice Lederer ruled that Bill 115 infringed on union members' rights to meaningful collective bargaining under the Charter of Rights and Freedoms. He also determined that the process the government engaged in was “fundamentally flawed.” At that time, Justice Lederer did not comment on a remedy for the parties, rather the unions and the government were required to meet to determine a remedy. If the parties were unable to reach agreement on a remedy, the matter will be referred back to Justice Lederer for a decision.

Over 18 months, ETFO met with government representatives to negotiate a fair Bill 115 remedy settlement. The settlement offers made by the government were not a fair restitution for the losses experienced by ETFO members as a result of Bill 115. In June 2017, the issue of remedy was referred back to Justice Lederer. The remedy decision was received on **February 2, 2022**.

### Remedy Decision

On **February 2, 2022**, Justice Lederer issued his decision on the ETFO remedy for the Charter violations that stemmed from the government's imposition of Bill 115, the *Putting Students First Act* in 2012.

This is the end of a long road for ETFO members, as we have been fighting, and waiting, a long time for a fair remedy. Today marks an end to that wait. The award of damages is significant in the amount of \$103,100,000.

“ETFO welcomes Justice Lederer’s decision, but we recognize it does not replace the loss of ETFO members’ bargaining rights, nor the sick leave, gratuities, and salary ETFO members lost when the Ontario government-imposed Bill 115,” says ETFO President Karen Brown. “We thank the court for recognizing that our members’ constitutional rights were violated by a government who unjustly forced contracts on them, froze their pay, and cut sick day provisions as part of an austerity push. Justice Lederer’s decision serves as a reminder to the government that they must never interfere with collective bargaining rights.”

## Remedy Summary

In brief, Justice Lederer has ordered a one-time cash payment of damages to eligible ETFO members who were employed by a school board during the 2012-2013 and/or 2013-2014 school year(s). ETFO will release specific details regarding the calculation of damages in our next communication.

## Award Eligibility

ETFO members who were employed by a school board between September 1, 2012, and August 31, 2014, including those who are no longer employed by a school board **may be eligible** if they meet the criteria of the award. Please ensure your employer(s) have your current address on file.

The verification of employment data may take several months. ETFO will also engage in a notification process.

**Please be patient. Local offices don’t have specific details yet. The provincial office will be communicating out more details in the near future.**

## Questions and Updates

We are preparing a Frequently Asked Questions resource to address questions about the remedy and compensation process. It will be shared with members very soon. Please share this message with retired members who worked during the affected years.

Updates will be provided in the days and weeks ahead through member e-newsletters, email, and the [ETFO website](http://www.etfo-torots.org).

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