

Working Within Your School Board and Volunteering: Are You Protected?

The Federation has the right, and the legal obligation, to represent all members in its various bargaining units with respect to their terms and conditions of employment.

When a school board offers an ETFO member an assignment, that member is governed by the relevant collective agreement and should be paying dues to ETFO, if ETFO is the bargaining agent.

It is extremely important for ETFO members to ensure that they are governed by the terms and conditions set out in the collective agreement when they are asked to take on unique or unusual roles in a public school board. For example, if a member were asked to do work for which the member was not qualified as required under the statute, the member could be in violation of the *Education Act*.

There may also be hiring, call-out, or posting processes that need to be followed under the provisions of the collective agreement. If school boards can call on teachers or education workers to fill vacancies for which they are not qualified or were not hired for under the collective agreement that governs that work, boards may not do what is necessary to find replacements, expand their lists and protect the jurisdiction of bargaining agents or the integrity of collective agreements.

ETFO provides an umbrella of protective services to members when they are performing their employment duties in Ontario public schools. Such services may include collective bargaining, grievances and grievance arbitration, employment-related advice, support at the Ontario College of Teachers, at the College of Early Childhood Educators, and in CAS and criminal matters, where necessary, in accordance with the Federation's Guidelines.

ETFO has established criteria for assessing when advice and legal support will be provided to members, the most important of which is whether or not the event in question is connected to the member's performance of his or her duties as a member. If the events are not connected to employment duties under the collective agreement, legal support will not be provided by ETFO.

ETFO members should resist entering into any type of "contract" for employment services, no matter how limited they appear to be, unless they are certain that the employment is covered by a collective agreement and dues are remitted to the appropriate union. Members could experience unintended pension consequences by accepting work that is not covered by a collective agreement. For example, the work could impact the calculation of members' annualized rate of pay, or the calculation of members' average best earning years. Members should seek information about any pension implications if their rate of pay is different doing the work they have been offered when compared to the pay for their regular work.

Similarly, if a member decides to work outside of his or her regular employment duties with a school board or with another employer, any legal issues which may arise may not fall within ETFO's mandate or criteria for legal approvals.

Personal Service Contracts

ETFO members must be aware that if they sign personal service contracts with school boards to offer coaching services, marking services over the summer, tutoring services, summer math/literacy camps or other types of services outside of their regular working day, they may be exposed to legal liability and not be eligible for ETFO legal support. ETFO has no role in negotiating personal service contracts or enforcing them as they are outside of ETFO's mandate.

The Federation's Professional Relations Services staff cannot offer advice to members about the negotiation or terms of such individual service contracts or provide advice about any problems that arise in relation to them. Legal support and legal advice will not be extended by ETFO to those on personal service contracts. The member who enters into these arrangements does so as an individual and not as an ETFO member. ETFO members should seek legal advice from their own legal counsel if they have any issues arising from any other employment or activities.

Accordingly, ETFO members should be cautious about accepting employment with a school board under a personal service contract.

Volunteer Activities

Often, ETFO members volunteer for a variety of activities in their own communities. Any legal issues that arise in such circumstances are the member's own responsibility. For that reason, ETFO frequently cautions members about volunteering for activities which are not connected to their employment duties, and which involve potential legal risks. These activities may include the coaching of a sports team in the community, the transporting of families or students to social or sporting events on weekends or after school, camping activities with students or community members, or other activities of this nature. All of these activities involve the individual as a community member in his or her individual capacity; not as an ETFO member performing their employment duties.

For more information, contact Professional Relations Staff at 416-962-3836 or 1-888-838-3836 at the provincial office.

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