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**Teacher Collective Bargaining in BC:
Bargaining Scope –
Why We Bargain What We Bargain**

Resource/Discussion Paper

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Teacher Collective Bargaining: Bargaining Scope

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Executive Summary

The differing views concerning public policy and collective bargaining came into further focus with the passage of Bill 28, the *Public Education Flexibility and Choice Act* in January 2002. By amending section 27 of the *School Act* effective July 1, 2002, collective agreements were prohibited from containing provisions that restricted or regulated the organization of schools, classes or programs. This legislation resurfaced the issue of whether certain matters that at the time were the subject of collective bargaining should instead be matters of public policy, outside the scope of collective bargaining. This issue initially arose in March 2001 when the British Columbia Teachers' Federation (BCTF) and the British Columbia Public School Employers' Association (BCPSEA) ratified the *K-3 Primary Class Size* agreement.

Public sector collective bargaining occurs in a political environment and there is no clear distinction as to what matters, by their nature, are policy matters and what are terms and conditions of employment subject to collective bargaining. The political element, in part, contributes to efforts by the parties to make their case in public. Teachers and hospital employees, for example, usually frame their bargaining demands not in terms of improved compensation and better working conditions, but rather in terms of improvements to the quality of education or health care. In a system of broad scope collective bargaining, the distinction between public policy matters and collective bargaining matters can become blurred, subject to a variety of motivations and interpretations.

British Columbia's current system of teacher collective bargaining, with its scope of bargaining matters, is the result of a series of policy decisions dating back to the late 1980s and substantially amended in 2001. Any consideration to having matters currently the subject of collective bargaining become exclusively public policy matters, allowing the government on its own motion to establish the associated terms, structures and processes with respect to these matters, requires an understanding of why and how the current system came to be.

This Resource/Discussion paper provides, in summary form, the key events and an overview of the scope of teacher collective bargaining in other Canadian and American jurisdictions. This paper was originally published in April 2001 and was updated and expanded June 2003.

Teacher Collective Bargaining in British Columbia

Present

On January 28, 2002, the *Public Education Flexibility and Choice Act* was passed by the legislature establishing a new public policy direction for public education in BC's K-12 public education sector.

The content of the provincial collective agreement was substantially affected by the *Public Education Flexibility and Choice Act*. By amending section 27 of the *School Act* effective July 1, 2002, collective agreements may no longer contain provisions that restrict or regulate:

- class size and class composition
- case loads or teaching loads
- staffing levels or ratios, or the number of teachers employed by a board
- assignment of students to a class, course or program.

Provisions of a teacher collective agreement that provide for such regulation or restriction are void and were to be deleted from the existing collective agreement. The Act set out a transitional process to make the structural changes to the existing agreements by May 11, 2002. The deadline was subsequently extended to August 31, 2002. However, the terms and conditions which were in collective agreements at the time of the legislation, with respect to class size, etc., remained in effect for the 2001-2002 school year.

In place of collective agreement class size and composition provisions, the *Public Education Flexibility and Choice Act* adds school district-wide average class size limits and individual class size limits to the *School Act*:

Class	Average	Individual
Kindergarten	19	22
Grades 1 - 3	21	24
Grades 4 - 12	30	no specified limit

The average limits are one student fewer than the pre-legislation collective agreement individual class limits for kindergarten to grade three, but individual class limits will be increased by two students. The amendments also eliminate any

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pre-legislation contractual reductions to these limits due to the inclusion of students with special needs in a class.

With respect to the operation of these provisions, by Regulation the government is able to specify dates by which these limits must be met, and require school boards to report class sizes to the Minister of Education and the public. Exceptions to the specified class size limits may also be made by regulation. Following a period of stakeholder input, the regulation was effective on August 12, 2002.

The *Public Education Flexibility and Choice Act* also prevents the legislative change clause in the teacher collective agreement (Article A.8) from operating in connection with these amendments, due to the nature and scope of the amendments.

This Act contains other amendments to the *School Act* that prevent the teacher collective agreement from restricting the ability of a school board to implement year-round school and extended school day configurations.

The following table sets out the matters affecting employment that are contained in the current *School Act* (SBC 1989, C. 61).

Issues that are included in the <i>School Act</i>	Issues that are included in the <i>School Act Regulations</i>
<ul style="list-style-type: none">▪ Report of Dismissal, Suspension and Discipline▪ Teacher Responsibilities▪ Teachers' Assistants▪ Employee Qualifications▪ Use of Volunteers▪ Scope of Bargaining▪ Terms and Conditions of Teachers Employment▪ Class size provisions	<ul style="list-style-type: none">▪ Duties of Teachers▪ Hours of Instruction▪ School Calendar▪ Class size

Table 1

The following sections outline the evolution of the scope of teacher collective bargaining in British Columbia.

Teacher Collective Bargaining: Bargaining Scope

Prior to 1987

Prior to 1987, teachers bargained locally under a regime that restricted scope to salaries and bonuses. Bargaining could be conducted on an optional regional (zonal) basis. Bargaining duration was limited by a legislated cut-off date(s) and impasses were resolved by mandatory interest arbitration. Employee working conditions and local policies concerning the delivery of services were typically covered by school board policy. In some cases, what were termed *Working and Learning Conditions* agreements were voluntarily negotiated by local school boards and local teacher associations.

Although strikes were illegal, teachers did engage in various job actions to promote their interests. It can be observed that it became apparent that the bargaining structure and processes were inadequate for meaningful conflict resolution, and were inconsistent with legislative structures in other Canadian jurisdictions.

The following table identifies the matters affecting employment that were contained in the *School Act* (RSBC 1979 C. 375) at that time.

Issues that were included in the <i>School Act</i>	Issues that were included in the <i>School Act Regulations</i>
<ul style="list-style-type: none">▪ Appointment and Assignment of Teachers▪ Transfer of Teachers▪ Term Assignment▪ Suspensions or Dismissals▪ Termination of Contracts▪ Training of Student Teachers▪ Leave of Absence▪ Report of Dismissal▪ Appeals▪ Review of Termination▪ Reductions in Force▪ Retirement Gratuity▪ Federation Membership Required▪ Suspension and Exemptions from Membership▪ Retirement Age and Exceptions▪ Qualifications for Teaching Certificate▪ Duties of a Teacher▪ Zonal Negotiations▪ Arbitration	<ul style="list-style-type: none">▪ Supervisory Personnel▪ Director of Instruction▪ Teacher Consultant▪ Leave▪ Probationary Appointment▪ Suspension and Dismissal▪ Temporary Appointments▪ Duties of Teachers▪ Hours of Instruction▪ Teacher Evaluation▪ School Assemblies▪ Teacher Absenteeism▪ Head Teacher and Principals

Table 2

Teacher Collective Bargaining: Bargaining Scope

The historical events that proceeded the series of structural changes in the late 1980's were reviewed in the BCTF *Teacher* news magazine and provide a particular perspective and context¹.

When the BCTF was founded in 1917, there were 744 school districts in B.C. and a few thousand teachers. They were all paid different salaries, on the basis of a list drawn up by the board of each district. From the beginning, B.C. teachers established that they were going to pursue their collective objectives with serious rigour when in 1919, Victoria teachers held a two-day strike to achieve a salary agreement. This was the first teacher strike in what was then referred to as the British Empire.

From that point forward, B.C. teachers used job action, political action, and professional influence to help attain their goals. In Langley, in 1939, the school board refused to implement an arbitrated salary settlement and fired its teachers instead. After the teachers were re-instated by a Board of Reference, the school board transferred them in an attempt to demote the teacher leaders. The provincial Council of Instruction reacted by firing the school board and replacing it with an official trustee. The teachers were paid their arbitrated award.

In the mid-'50s, we saw the removal of discrimination in salary scales against women teachers and the elimination of differences in pay for teachers in elementary, junior secondary, and senior secondary schools. From that point forward, only qualifications and years of teaching experience would determine a teacher's salary.

In 1974, after years of BCTF campaigns to reduce class sizes, Surrey teachers walked off their jobs for a day and traveled to Victoria in protest of large class sizes. The result, through vigorous negotiations by the BCTF, was a three-year commitment by government to a sizable reduction in the pupil-teacher ratio. Thousands of new teachers were hired, class sizes and the PTR were reduced.

In the early '80s the Federation embarked upon a major initiative to expand the scope of bargaining. Boards were only required to negotiate salaries and bonuses with teacher locals. But, in the fall of 1981, B.C. teachers in local after local obtained major improvements in their contracts, having negotiated in many districts such items as elementary preparation time, duty-free noon hours, personnel practice matters, and a grievance procedure. A successful six-day strike in Terrace in June 1981 on personnel issues had set the stage for this significant advance in bargaining.

The success of class-size reductions in the late '70s and the 1981 round of bargaining were eclipsed by a restraint program introduced by the provincial government in 1982. Cutbacks in education funding and a wage-control program (Compensation Stabilization Program) had a dramatic negative impact on working and learning conditions in B.C. schools. But teachers were not the only people under attack. By 1983, the BCTF joined with the rest of organized labour in forming Operation Solidarity, which in turn formed the Solidarity Coalition with a broad sector of community- and social-action groups. A rally of 50,000 at

¹ Novakowski, Ken. "Teacher Rights and Benefits: Building on Our Past" in BCTF *Teacher Newsmagazine*. September 1999.

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Empire Stadium and a downtown protest march of 80,000 gave focus to the public opposition to the funding cuts and assault on labour and human rights being waged by government.

In November of 1983, the BCTF led the way in an Operation Solidarity-initiated strike action aimed at changing the legislative agenda of government. B.C. teachers walked out and picketed their schools for three days as the first part of a staged shut down of the province. When labour and the government reached a deal that ended the strike action, the major gain for teachers was the right to negotiate seniority and severance provisions with school boards.

Teacher Collective Bargaining: Bargaining Scope

1987

In 1987, two pieces of legislation were passed that structurally changed the relationship between teachers, principals, and their employers. Bill 19, *Industrial Relations Reform Act* was passed, replacing the *Labour Code*. The Act included teachers under the definition of “employees” in the *Industrial Relations Act* (IRA). Bill 20, the *Teaching Profession Act* was passed, providing for voluntary membership in the BCTF and excluding principals and vice-principals from the bargaining unit. Bill 20 also proposed a structural distinction between a professional association of teachers and a labour union.²

The *Teaching Profession Act* also created the BC College of Teachers (BCCoT), which was to be responsible for professional activities. Prior to this, the BC Ministry of Education issued teaching certificates. Under the Act, a council was established responsible for teacher certifications. The council is composed of 20 members – 15 elected teachers, four appointed government officials and one member appointed by the deans of education in BC. Originally, this structure was intended to empower the BCCoT rather than the BCTF with respect to professional activities; however, BCTF-supported candidates won all 15 of the elected positions, which allowed the BCTF to gain control of the BCCoT.

With respect to collective bargaining, IRA Section 131.2 codified the broad scope bargaining structure:

Scope of Bargaining

131.2 *A teachers' union or an association may, on matters in respect of which a board has been given a power or discretion under this Act or the Regulations, enter into a collective agreement or an agreement referred to in section 131.1 (1) containing provisions respecting*

(a) the manner in which the power or discretion may be exercised, and

(b) the consequences that flow from the exercise of the power or discretion but where this Act or the regulations contain express provisions respecting any matter referred to in paragraphs (a) and (b), those express provisions prevail over the collective agreement in the event of a conflict.

1987-19-69, 91, effective January 1, 1988

² Thomason, Terry. “Labour Relations in Primary and Secondary Education” in *Public Sector Collective Bargaining in Canada*. Eds. Swimmer, G. and Thompson, M. IRC Press, 1995. 285.

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1989

The *School Act* was amended effective September 1, 1989. The following employment matters were removed from the previous version:

- Leaves of Absence
- Sick Leave
- Teacher Evaluation
- Appeal of Discipline or Content of Teacher Report
- Boards of Reference
- Reductions in Force
- Term Assignment
- Transfer of Teachers
- Appointment and Assignment of Teachers
- Probationary Appointment
- Termination of Continuing Contract
- Discipline for Misconduct
- Retirement Gratuity
- Federation Membership Required
- Suspensions and Exemptions from Membership
- Retirement Age and Exemptions
- Qualifications for a Teaching Certificate
- Zonal Negotiations
- Notice to Negotiate
- Arbitration
- Right to Representation
- Hours of Instruction
- School Day
- School Year

In a 1993 brief to the Public Service Policy Commission, the BCTF described this period as follows:

Immediately following the first round of bargaining for the 1988-90 agreements, the provincial government totally re-wrote the School Act. Issues as fundamental as a teacher's employment status with the school board, contracting out powers, and the schedule and duration of the school year were changed or eliminated. The changes were so sweeping that boards and teachers were effectively obliged to negotiate a second "first contract" for the 1990-92 period. The hours spent in the first round of bargaining were largely lost as the parties were obliged, by the government's changes, to revisit subject after subject.³

³ British Columbia Teachers' Federation. *Face to Face*. February 23, 1993.

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While there was no requirement or arguably no compelling reason to do so, many school boards and local teachers' associations negotiated the inclusion of some of the deleted *School Act* provisions in the collective agreement. Given the broad scope of bargaining and the positions advanced by local unions, these matters and other matters such as class size, and mainstreaming and integration of students with special needs, became negotiated collective agreement provisions. In an April 2000 article in the BCTF *Teacher* news magazine, former BCTF President Ken Novakowski described the period between 1987 and 1994 as follows⁴:

It happened in 1987. B.C. teachers gained full collective bargaining rights. And the grantor was a most unlikely politician – Social Credit Premier Bill Vander Zalm.

The struggle for full collective bargaining rights by B.C. teachers was a long and arduous one, marked by large mobilizations of members in “expanded scope” campaigns, by legal and political actions like the Charter challenge and by momentous and even tumultuous events like the “Solidarity” strike of 1983. In 1987, we were the only sizable group of organized employees in B.C. and the only teacher body in the country that did not enjoy the statutory requirement that their employers bargain all terms and conditions of employment with them. And we did not possess, even with our limited scope, the right to strike.

All that changed in 1987, a watershed year in the history of the BCTF. On April 1 of that year, the government announced two major pieces of legislation – Bills 19 and 20. Bill 19 was a piece of legislation that restricted existing rights for trade unions while at the same time including teachers as employees entitled to those rights. Principals and vice-principals were removed from the teacher bargaining unit with a clear “management role” defined for them. Bill 20 created a College of Teachers that was intended to certify teachers and also to represent the professional interest of teachers. Coupled with the removal of statutory membership of all public school teachers in the BCTF, this initiative was viewed as a government attempt to split the loyalty of teachers, creating a union “BCTF” and a professional organization “College of Teachers.” The labour movement was angry over Bill 19. And we were adamantly opposed to Bill 20.

The BCTF response was swift and united. Four weeks after the legislation was tabled, on April 28, after a province-wide vote, teachers in every local walked off the job and shut down every school in the province to protest the government legislation. Rallies were held in a number of communities while thousands of

⁴ Novakowski, Ken. “Gaining Full Collective Bargaining Rights” in BCTF *Teacher Newsmagazine*. April 2000.

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teachers jammed into the AgriDome in Vancouver to hear their president, Elsie McMurphy, square off against the Vander Zalm government for its attack on the BCTF. A month later on June 1, teachers joined the rest of the labour movement in a one-day general strike to protest Bills 19 and 20.

When the dust settled and the legislation was turned into law, the BCTF faced a number of challenges. First, the legislation provided teacher locals with the option of choosing to be an “association” with limited scope and binding arbitration for resolving disputes or a “union” with full scope and the right to strike/lockout. As well, with the removal of statutory membership, we were faced with having to voluntarily sign up teachers into the local and the BCTF. And the new College of Teachers loomed as a potential rival for the loyalty of teachers.

In the most significant mobilization of BCTF resources toward a single objective, the BCTF organized and co-ordinated its 76 locals to sign up teachers into the BCTF and to opt for, in every local, the “union” model for bargaining. Teachers signed up into the BCTF in the range of 98%. The campaign was successful beyond belief. And when elections for the College of Teachers were held, BCTF-endorsed candidates won all 15 of the elected spots on the 20 person board. Teachers were in charge of the college, and ensured that its mandate would remain limited to the certification, recertification, and decertification of teachers and that the realm of professional development would remain within the purview of the BCTF.

Faced with an outside threat to the profession and their organization, teachers reshaped and reformed their “union of professionals” into a new organization that would continue to represent all of the economic, social, and professional interests of teachers. As well, the public profile of the BCTF and its president, Elsie McMurphy, were raised to new heights through the campaign of opposition and mobilization. And we further strengthened our relationship with the labour movement through participation in the general strike. We then turned our minds to preparing for our first effort at full collective bargaining with the right to strike.

What emerged was a system of co-ordinated local bargaining. Locals were the bargaining unit charged with the responsibility of negotiating a collective agreement with their school board. The BCTF developed the Collective Bargaining Handbook, with model clause language on every conceivable provision that teachers might wish to negotiate. Local bargaining teams were trained by the BCTF and supported by staff assigned to work with locals. Additional staff were hired to assist and new policies and procedures were put in place to support the new bargaining regime, including strike pay and assistance.

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The first round of full collective bargaining for teachers in 1988 continued to mobilize the excitement and energy of teachers that was generated in the sign-up certification campaign the year before. On November 28, 1988, Kitimat teachers began a 10-day strike before successfully concluding an agreement. Eleven other locals struck in the first round and others mobilized to achieve their objectives that became identified in the slogan "WHY NOT HERE?". The important aspect of the experience of co-ordinated local bargaining was not that we did well – we did. What was so very important about local bargaining was the high degree of democracy and member participation in decisions and the process of achieving local collective agreements. As a Federation officer in the first two rounds of local bargaining, I well remember my visits to locals and the high percentage of members who attended meetings, took part in activities, and supported their bargaining teams in their efforts to achieve improvements in teacher salaries, working conditions, and professional rights.

School boards' experiences with local bargaining, particularly the associated costs and in many cases strikes, prompted calls for a different bargaining structure. Strikes in large urban communities during the 1993-1994 school year focused attention on the shortcomings of the bargaining structure from the employers' perspective and highlighted the need for change.

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1993-1994

On July 9, 1993 the *Final Report of the Commission of Inquiry into the Public Service and Public Sector* (Korbin Commission) was released, establishing the basis for legislative initiatives to change the structure of the public sector. Soon after, on July 27, Bill 78, the *Public Sector Employers Act* (PSEA) was passed, establishing the Public Sector Employers' Council (PSEC) and employers' associations in six sectors of the public sector:

- Health
- Social Services
- K-12 Public Education
- Colleges and Institutes
- Universities
- Crown Corporations, Agencies, and Commissions.

As a result, BC's K-12 sector changed significantly. In May 1994, the British Columbia Public School Employers' Association (BCPSEA) was formed. On June 7, Bill 52, the *Public Education Labour Relations Act* (PELRA) was passed, which established BCPSEA as the accredited bargaining agent for all public school boards and the BCTF as the certified bargaining agent for all public school teachers in the province. During the period of May-August, the BCPSEA *Constitution and Bylaws* were developed in accordance with the provisions of PELRA.

Section 7 of PELRA established, for collective bargaining purposes, the parameters for what matters would be considered provincial matters and negotiated provincially and what matters were local matters and could be negotiated by the local school boards and local teachers' associations/unions:

- 7
- (1) *The collective agreement entered into under this Act with respect to teachers must include all Provincial matters and local matters that have been agreed on by the parties.*
 - (2) *Subject to subsection (3), the employers' association and the Provincial union must designate the Provincial matters and local matters to be determined by collective bargaining.*
 - (3) *All cost provisions, within the meaning set out in subsection (4), are deemed to be Provincial matters.*
 - (4) *In subsection (3), "cost provisions" includes all provisions relating to*
 - (a) *salaries and benefits,*
 - (b) *workload, including, without limitation, class size restrictions, and*
 - (c) *time worked and paid leave,**that affect the cost of the collective agreement.*

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- (5) *If the employers' association and the Provincial union are unable to agree on a designation under subsection (2) in the negotiations for the first Provincial agreement only, on the request of both parties or on his or her own motion, the Minister of Skills, Training and Labour may appoint a person to arbitrate a dispute with respect to the designation*

*Public Education Labour Relations Act, [RSBC 1996 C. 382]
[Updated to October 1, 1998]*

A historical review of the legislative approach to teacher employment matters in BC reveals that there is nothing that separates collective bargaining matters from those contained in public policy. *What is contained where* is a decision for policy makers. As a result, policy makers must consider what matters should fall within the scope of bargaining and what matters should not. The legislative history and the current structures provide the necessary context and framework for any further review or discussion concerning collective bargaining and its scope.

Teacher Collective Bargaining: A Canadian Perspective

In recent years, collective bargaining legislation in the various Canadian jurisdictions has changed considerably. In the fall of 1997, the Ontario government removed class size from the scope of collective bargaining and is currently considering a shift towards province-wide bargaining. As well, in late 2001 the Nova Scotia government moved away from a two-tiered bargaining structure towards a single-tier system. Table 3 illustrates the scope of bargaining in other provinces.

	Full Scope of Bargaining	Bargaining Limited by Legislation	Other
British Columbia		X	
Alberta	X		
Saskatchewan			X
Manitoba	X		
Ontario		X	
Quebec			X
New Brunswick	X		
Newfoundland			X
PEI		X	
Nova Scotia			X
Yukon	X		

Table 3

It is not only the bargaining structure that varies from one province to another – the level of government intervention in the bargaining process also varies. Each province or territory negotiates collective agreements under different bodies of legislation. Some provinces face more restrictive rules, while others enjoy full collective bargaining rights and are free to negotiate all the terms of the agreement.

Manitoba, Alberta, Saskatchewan, Quebec, New Brunswick, and the Yukon have what can be characterized as full scope collective bargaining. Those governments have chosen not to limit the bargaining process through legislation. While some of these provinces are not limited by legislation, they have opted to not negotiate, or have resisted negotiating, some provisions at the bargaining table. For example, some school boards in Saskatchewan have also resisted negotiating class size language into the collective agreement. The language in the provincial *School Act* is

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structured such that it can be interpreted in a variety of ways as it applies to bargaining scope.

Governments in the provinces of Ontario, Prince Edward Island, and British Columbia have decided to narrow the scope of collective bargaining, most frequently through legislation governing the public school system. Often, governments argue that some issues are a matter of “public policy” and, thus, warrant this approach. In 1997, changes in Ontario’s legislation have resulted in the removal of class size, secondary teaching assignments and “co-instructional” activities provisions from the scope of collective bargaining.

Each Canadian jurisdiction has its own unique structure as it applies to teacher collective bargaining. Appendix A provides a Canada-wide comparison of provisions that are not negotiable and how they are determined.

Appendix A – Summary: Teacher Collective Bargaining Scope and Structure

Province	Bargaining Structure	What Issues Are Not Negotiable?	How Are These Issues Determined?
Alberta	Local	The <i>School Act</i> does not place any restrictions on what can or cannot be negotiated. Teacher unions have raised class size maximums at bargaining tables but School Boards have not agreed to these demands.	Class size maximums have not been agreed to in collective agreements. Calgary Public and Separate School Boards have agreed to pupil-teacher ratios which include classroom and non-enrolling teachers in staffing ratios.
Saskatchewan	Two-tiered	The <i>Education Act</i> is not prescriptive as to what issues can or cannot be negotiated. Section 237(6) of the Act states, “ No collective bargaining agreement is to contain terms regulating the selection of teachers, the courses of study, the program of studies or the professional methods and techniques employed by teachers. ” Saskatchewan has a two-tiered bargaining structure. Issues such as salaries, principal allowances, superannuation, group life and the duration of the agreement must be negotiated provincially. Other provisions are negotiated at the local level. Many school districts have	Class size maximums are not a feature of collective agreements.

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Province	Bargaining Structure	What Issues Are Not Negotiable?	How Are These Issues Determined?
		resisted the inclusion of provisions such as class size or preparation time in their collective agreements.	
Manitoba	Local	No restrictions on the scope of bargaining.	N/A
Ontario	Local	All issues except class size, secondary teaching assignments and “co-instructional” activities can be negotiated.	The government has made regulations under the <i>Education Act</i> to address matters outside the scope of collective bargaining. The class size regulation sets out the procedures for determining and reporting average class sizes in the aggregate of a board’s schools and of each school in the board. The regulation on teacher assignments provides direction to boards on what courses are eligible in the calculation of teacher assignments and the method of calculating.
Quebec	Three-tiered	Quebec has a three-tiered bargaining structure: Central, Sectoral and Local tables. All issues can be negotiated.	N/A

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Province	Bargaining Structure	What Issues Are Not Negotiable?	How Are These Issues Determined?
Newfoundland	Provincial	Terms and conditions of employment are negotiable with the following exceptions. Pensions and benefits are not negotiated; government determines them and the cost is split by the employer and employee. Class size and teacher workload are not negotiated. The parties mutually agree that these two issues are to be dealt with by smaller committees and not at the bargaining table.	N/A
New Brunswick	Provincial	All terms and conditions are negotiable. The province has developed a process of expedited bargaining (only for teachers). It must be agreed to by both parties in advance of the notice-to-bargain period. It has been used twice: 1994 and 1996. In This process, each party unilaterally identifies three articles that cannot be tabled. The government always selects class size and preparation time as two of its three. The Federation always selects leaves for professional activities and retirement allowance as two of its three. Under the traditional collective bargaining process there are no restrictions on bargaining.	N/A

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Province	Bargaining Structure	What Issues Are Not Negotiable?	How Are These Issues Determined?
Nova Scotia	One-tiered	There are some provisions that are included in the Regulations under the Education Act (i.e. some leave provisions, teaching conditions such as school day) and in the Education Act (i.e. termination and discharge procedure).	There are two kinds of regulations: Orders in Council and Ministerial Orders. OiC are passed either by advice from the Minister of Education or through Cabinet initiatives. Ministerial Orders are orders from the Minister of Education usually on advice from senior staff and often elaborate on articles of legislation. MO do not override the C/A.
Prince Edward Island	Provincial	All the provisions are negotiable with the following exceptions: Student teacher ratios; the subject of a Ministers' directive issued pursuant to the School Act; pension and benefits cost sharing.	Legislated.
Yukon	Provincial	The scope of collective bargaining is not restricted by legislation.	N/A

Appendix B – Summary: Teacher Collective Bargaining Scope and Structure in the United States

In the United States, K-12 public education is the responsibility of each state. Issues such as teacher certification, curriculum content, and high school graduation requirements are dealt with at the state level. Traditionally, the states have delegated much of their responsibility to the local community level. One key area of school district responsibility is the determination of terms and conditions of employment for teachers and support personnel.

In public school jurisdictions where employees are permitted to unionize collective bargaining occurs between local school boards and local teacher unions. Approximately three-quarters of all teachers belong to one of the two large teacher unions (the American Federation of Teachers and the National Education Association). This figure however, overstates union membership and the impact unions have on the American education sector. Only 35 states have collective bargaining laws. This equates to only about 50% of teachers in the US working under collective bargaining law. One of the current trends in education sector is the development of union security provisions, namely agency fee. Agency fee allows teachers the right to choose whether to belong or not to belong to the union; however, as a condition of employment, employees must pay a fee for the services provided by the union (i.e. negotiations). State laws allow for these fees, but do not require them.

Although it varies from state to state, in general, the scope of bargaining is limited to wages, hours of work, and some working conditions. Educational policy matters are not negotiable.

The structure for negotiation and dispute resolution is very similar throughout the U.S. Many of the states provide for fact-finding, mediation and/or arbitration. Strikes are illegal in most jurisdictions. In some states the legislation specifically prohibits strikes, others are silent on the issue, some have a limited right to strike and a few have the right to strike. It should be noted that the number of strikes in recent years has been limited (+/- 100 per year of 15,000 school districts).

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Summary

Scope of Collective Bargaining

Of the districts with collective bargaining legislation, the following is within the scope of bargaining:

- Wages – 29 states
- Conditions of employment – 28 states
- Hours of work – 25 states
- Benefits – 6 states
- Grievance procedure – 6 states
- Other provisions (appearing in 2 or more states):
 - Vacation time – 3 states
 - Leaves – 3 states
 - Labour management relations – 2 states
 - Materials, textbooks and supplies – 2 states

Bargaining Agent

- 18 states – Have right-to-work laws (laws that prevent collective bargaining agreements from containing union security clauses that require workers to support and share the costs of union representation)

Bargaining Impasse Procedures

- Mediation – 31 states use mediation procedures
- Fact-finding – 28 states use fact-finding procedures
- Arbitration
 - 4 states – Have mandatory arbitration
 - 18 states – Have voluntary arbitration

Right to Strike

- 9 states – Have the right to strike
- 12 states – Do not have the right to strike
- 12 states – No right to strike and will have penalties imposed if they strike
- 17 states – Are not governed by labour relations legislation

Teacher Collective Bargaining: Bargaining Scope

State	Scope of Bargaining	Right to Work	Bargaining Impasse Procedure			Right to Strike
			Med.	FF	Arb.	
Alabama	N/A	X				
Alaska	Wages and conditions of employment.		X		M	Yes
Arizona	N/A	X				
Arkansas	N/A	X				
California	Wages, hours and conditions of employment.		X	X		No
Colorado	N/A					
Connecticut	Wages and conditions of employment.		X		M	No
Delaware	Wages, benefits and conditions of employment.		X	X		No
Florida	Wages, hours and conditions of employment, excluding pensions.	X	X	X		No*
Georgia	N/A	X				
Hawaii	Wages, hours and conditions of employment, excluding retirement, health fund and salary ranges.		X	X	V	No
Idaho	Wages and conditions of employment.	X	X	X		No
Illinois	Wages, hours and conditions of employment (<i>Teachers in Chicago Public schools are prohibited from bargaining over class size, staffing, academic calendars and layoffs</i>).		X	X	V	Yes
Indiana	Wages, hours, benefits, curriculum development, teaching methods, textbook selection, class size, student discipline and budget appropriations.		X	X	V	No*
Iowa	Wages, hours, vacation time, insurance, holidays, leave, overtime, seniority and health and safety issues.	X	X	X	M	No*
Kansas	Wages, hours and conditions of employment.		X	X		No
Kentucky	N/A					
Louisiana	N/A	X				

Teacher Collective Bargaining: Bargaining Scope

State	Scope of Bargaining	Right to Work	Bargaining Impasse Procedure			Right to Strike
			Med.	FF	Arb.	
Maine	Wages, hours, grievance arbitration, working conditions, and educational policy.		X		V	No
Maryland	Wages, hours and working conditions.		X	X		No*
Massachusetts	Wages, hours, performance standards and conditions of employment.		X	X	V	No*
Michigan	Wages, hours and conditions of employment.		X	X		No*
Minnesota	Hours, fringe benefits, grievance procedures and conditions of employment, excluding retirement benefits.		X		M	No*
Mississippi	N/A	X				
Missouri	N/A					
Montana	Wages, hours, fringe benefits and conditions of employment.		X	X	V	Yes
Nebraska	Terms of employment and labour-management relations.	X		X		No
Nevada	Wages, hours, sick leave, vacation time, insurance benefits, teacher preparation time, and materials and supplies for classrooms.	X	X	X	V	No*
New Hampshire	Wages, hours and conditions of employment		X	X	V	No

Teacher Collective Bargaining: Bargaining Scope

State	Scope of Bargaining	Right to Work	Bargaining Impasse Procedure			Right to Strike
			Med.	FF	Arb.	
New Jersey	Conditions of employment and grievance procedures.		X	X	V	No
New Mexico	N/A					
New York	Wages, hours, conditions of employment, and grievance procedure.		X	X	V	No*
North Carolina	N/A					
North Dakota	Wages, hours, conditions of employment, and labour management relations.	X	X	X		No*
Ohio	Wages, hours, conditions of employment and the modification of any collective bargaining provision.		X	X	V	Yes
Oklahoma	Wages, hours and work conditions.			X		No*
Oregon	Wages, hours, sick leave, vacation time, and grievance procedure.		X	X	V	Yes
Pennsylvania	Wages, hours and conditions of employment		X	X	V	Yes
Rhode Island	Wages, hours and working conditions		X		V	Yes
South Carolina	N/A	X				
South Dakota	Wages, rates of pay, hours and conditions of employment.	X	X	X		No*
Tennessee	Wages, working conditions, insurance benefits, grievance procedure, student discipline and payroll deductions.		X	X	V	No
Texas	N/A	X				
Utah	N/A	X				
Vermont			X	X	V	Yes
Virginia	N/A	X				
Washington	Wages, hours and conditions of employment.		X	X	V	No

Teacher Collective Bargaining: Bargaining Scope

State	Scope of Bargaining	Right to Work	Bargaining Impasse Procedure			Right to Strike
			Med.	FF	Arb.	
West Virginia	N/A					
Wisconsin	Wages, hours and conditions of employment.		X	X	V	Yes
Wyoming	N/A	X				

Legend:

- * *With penalties*
- 'N/A' *These districts are not governed by state collective bargaining laws and, therefore, do not have scope of bargaining restrictions. The one exception is the state of Missouri, which has a state collective bargaining law, but teachers are not within the purview of that legislation.*
- 'V' *Arbitration is voluntary*
- 'M' *Arbitration is mandatory*

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