



ISSUES

For Administrators Series

Monograph #1

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Administrators and the ATA

Throughout the ATA's 78-year existence, school administrators have played an important leadership role at both the local and provincial level. Many ATA presidents and officers have been school and system administrators, and their leadership abilities have been critical in seeing the ATA and its members through some difficult times.

A rapidly changing social and economic environment, regionalization and amalgamation of school jurisdictions and the consequent restructuring of many ATA locals, the advent of site-based decision making and school councils are all challenges for Alberta's school administrators. The Association recognizes this new working environment and has designed new services to help administrators with the transition to greater school autonomy. Change, however, does not come without tension and the Association is concerned with the apparent desire of some administrators to speak of themselves as a breed apart from classroom teachers and to apparently accept that they have no grounds to challenge school boards and superintendents who may encourage separate status.

The purpose of this monograph is to outline the legal status of school administrators within the ATA and its subgroups, provide information about the ATA services available to administrators and stimulate discussion about how those services could be modified. This monograph is the first in a series prepared by the ATA and its Council on School Administration (CSA). Future monographs will address other issues of current concern to administrators and will be made available free of charge to CSA members.

Please note that while certain sections of this

monograph focus on the role of principal as administrator, the advice and services outlined pertain to vice-principals, assistant principals and other teachers serving in an administrative capacity in school jurisdictions.

Legal Parameters

Membership in the ATA

Membership in the ATA is defined and mandated by the *Teaching Profession Act*:

5(1) Subject to this section, the employment of a teacher by a school board, other than a superintendent, is conditional on the teacher being and continuing to be an active member of the Association.

Membership is further defined in the definitions section of the act:

1(a)(i) "superintendent" means a superintendent appointed by a school board pursuant to the *School Act* and the teacher, if any, who is appointed by the school board to be his chief deputy.

Thus, all teachers employed by a school board—except for the superintendent and another teacher (if any) specifically designated *by board motion* as chief deputy—are active members of the ATA and, as a result, have all the attendant rights and responsibilities of membership. Membership includes teachers serving as school administrators as well as those holding any other designation except for that of superintendent and chief deputy.

Membership in the Bargaining Unit

Membership in the bargaining unit is a separate issue from that of membership in the ATA. It is governed by ATA policy and bylaws, the *School Act* and labour legislation.

Administrators, particularly those in large urban systems, sometimes ask why they cannot have their own bargaining unit. The structure of ATA bargaining units is determined by the ATA's General Bylaws. Bylaw 11(1) speaks to the ATA's role as bargaining agent for all of its members:

11(1) The Association shall be the bargaining agent for its active members pursuant to the provisions of the *Labour Relations Code*. Upon written request from a bargaining unit, the Association shall appoint a representative of the bargaining agent.

ATA bylaw 12 (relevant sections reproduced below) governs the formation of locals and local membership:

12(1) Subject to subsection (3), any 100 active members of the Association may apply to the Provincial Executive Council to form a local by instructing the provisional secretary-treasurer of the proposed local to submit a copy of its proposed constitution and bylaws to the executive secretary.

12(3) No application under subsection (1) shall be considered for approval by the Provincial Executive Council unless all the teachers from one or more school districts will be included as members of the proposed local.

In addition, bylaw 13 states that all teachers employed by a school jurisdiction are to be members of the same local:

13 Any active member of the Association who teaches within the boundaries of a local as defined by the Provincial Executive Council shall be a member of such local.

ATA policy, which is considered and passed by the ATA's parliament, the Annual Representative Assembly, is also clear on this matter. Policy 5.A.8 states that "All teachers, with the exception of the superintendent, employed by a school board as teachers must be members of the same bargaining unit." Policy 5.A.9 opposes the exclusion of principals and other administrators from the bargaining unit:

5.A.9 Appropriate steps will be taken to oppose any actions by school boards that might lead to the exclusion from teacher bargaining units of principals and other administrative personnel who are members of the Association, except as such exclusions are provided for by collective agreements.

The issue of school administrators belonging to ATA bargaining units is not a new one, and has been challenged by school jurisdictions on a number of occasions. Here are the key provisions of the *School Act*:

1(1)(m) "principal" means a teacher designated as a principal or acting principal under this Act;

1(1)(x) "teacher" means an individual who holds a certificate of qualification as a teacher issued under this Act;

77(1) Subject to section 75, a board may appoint any person or designate a teacher to an administrative, supervisory or consultative position.

77(2) When an organization representing teachers carries on collective bargaining on behalf of the teachers, a board and the organization, through negotiation, may include in or exclude from the teachers on whose behalf the organization is bargaining any teacher who has been designated by the board to an administrative, supervisory or consultative position.

78(3) Subject to subsection (2) and notwithstanding any other agreement to the contrary, the terms and conditions of employment between a board and a teacher shall comprise the following:

- (a) except in the case of a teacher excluded under section 77(2), the terms and conditions
 - (i) negotiated under the *Labour Relations Code*, and
 - (ii) agreed to between the board and an organization representing teachers;
- (b) this section and sections 77 to 80 and 82 to 91;
- (c) the terms and conditions agreed to between the board and the teacher.

99(1) Notwithstanding anything in this Act, the *Labour Relations Code* applies to a board and the employees of the board.

As recently as 1991, school boards have attempted to exclude principals from ATA bargaining units composed of all teachers. In the 1991 case, the Edmonton Public School District asked the Labour Relations Board (LRB) to exclude principals from collective bargaining because of the school district's contention that principals and others acting in administrative, supervisory or consultative positions exercised managerial functions.

The ATA took the position—subsequently upheld by the LRB and the Alberta Court of Appeal—that the *School Act* precludes the LRB from making such a determination and that the only way to exclude teachers with designations from the single all-teacher bargaining unit was via the collective bargaining

process itself. The net effect of such exclusion, if arrived at through ATA and school board agreement, would be to define certain employees as managerial. Because the LRB has ruled that the definition of employee in the *Labour Relations Code* does not apply to teachers, the single all-teacher bargaining unit can only be altered by negotiation and mutual agreement as specified in the *School Act*.

In writing the judgment of the Court of Appeal panel on the above case, Madame Justice Fraser addressed one of the common arguments for excluding principals from the bargaining unit, the argument of principals as managers:

I now turn to the second, more problematic issue: does the reference to “teacher” in s. 78(3) **include** those teachers employed in a managerial capacity as the ATA contends? I have concluded that the answer is Yes. I begin with the obvious—the wording of the *School Act* itself and the context in which the words of the statute have been used. The *School Act* makes numerous references to “teachers”. But nothing in the *School Act* expressly or by implication reflects any legislative intention to draw any distinction between “managerial” and “non-managerial” teachers or to superimpose the managerial exclusion under the *Code* on the collective bargaining scheme prescribed for teachers by the *School Act*. Instead, viewing the *Act* in its entire context, I have concluded that the collective bargaining scheme adopted for teachers is an inclusionary one: all teachers are in the teachers’ bargaining unit unless and until negotiated out by mutual agreement under s. 77(2). This interpretation is consistent not only with the plain wording of the *Act*, and ss. 77(2) and 78(3) in particular, but also with the philosophy underlying it. That philosophy, in my view, is to statutorily prescribe, in response to legitimate labour relations concerns in the teaching sector, the minimum terms and conditions under which all teachers, including principals, will be employed by school boards in this province in a comprehensive statute dedicated to that purpose. Any construction which would have the anomalous result of depriving any defined group of teachers of their statutory rights and remedies *vis-à-vis* their respective employers must be rejected. Clear words would be needed to conclude that this was the Legislature’s intention. They do not exist. I shall use one example only from the many which exist to demonstrate that this is so.

Under the *School Act*, every **teacher** has the right to appeal a termination or suspension to the Board of Reference appointed for this purpose by the Minister of Education. The importance of the Board of Reference provisions to the teaching profession cannot be overstated. They represent the cornerstone of the teachers’ tenure system and, as such, are central to that system’s continued integrity. Section 114

defines those circumstances in which a disagreement between “**a board and a teacher**” may be appealed to the Board of Reference. They include a case in which a school board has terminated a **designation** of a teacher. Principals are “designated” under s. 14. Therefore, since the section refers only to a teacher, as opposed to a principal, challenging the termination of a designation as a teacher, it follows that the reference to a “teacher” in s. 114 must necessarily include a “principal”. But does the reference in s. 114 to “teacher” include a “managerial” teacher? Again, in my view, it does. As with other sections in the *School Act*, I see nothing in the wording of s. 114 which evinces any intention to exclude from the Board of Reference parameters any “managerial” teachers (including principals).

ATA collective agreements commonly include a clause or preamble to the effect that the agreement applies to all employees/teachers requiring a teaching certificate.

Even if agreed to as a result of collective bargaining, the exclusion of principals from the bargaining unit would likely not result in the creation of a separate bargaining unit for principals. Bargaining units are structured on generally accepted labour relations principles. Undue fragmentation of employee groups is to be avoided and a commonality of interest is required within a unit. In addition, labour legislation does not provide for bargaining units composed of “managers.” The net effect of excluding administrators might be individual negotiations between administrators and the employer.

ATA policy supports the current bargaining unit structure and places heavy emphasis on the collegial relationship among all teachers. If this structure is not working for administrators, the specific issues need to be addressed.

Professional/Ethical Considerations

School administrators should remember that, although they have a specialized function, they are first and foremost teachers. As teachers and as members of the ATA, they are bound by the Code of Professional Conduct. In addition, the Declaration of Rights and Responsibilities for Teachers pertains as much to them as it does to all other teachers.

Recent changes to the discipline provisions of the Teaching Profession Act (outlined in greater detail in the *Legal Context of School Administration* monograph) place an obligation on all active members to report cases of unprofessional conduct. The new procedures also provide for an alternate dispute resolution process that may assist administrators to diffuse issues between colleagues or concerns expressed by parents.

Practical Considerations

A number of issues relating to the role of administrators as members of the ATA surface from time to time. A few of the more common ones are discussed below.

Evaluations of Administrators

From time to time, some superintendents request school staffs to complete anonymous questionnaires regarding the performance of the school administrator. It is most unfortunate that some superintendents are still using this technique. Administrators and classroom teachers should be concerned about the ethical implications of the request and process.

Items 13 and 14 of the Code of Professional Conduct are very specific on the matter of criticizing another teacher:

13. The teacher criticizes the professional competence or professional reputation of another teacher only in confidence to proper officials and after the other teacher has been informed of the criticism.

14. The teacher, when making a report on the professional performance of another teacher, does so in good faith and, prior to submitting the report, provides the teacher with a copy of the report.

Evaluating the principal is a duty of the superintendent, not of the school staff. Anonymous questionnaires are unprofessional and a quick and dirty method of evaluation. The ATA cautions members not to participate in this form of evaluation exercise.

Ethically, classroom teachers can respond to such requests in two ways:

1. Refuse to participate.
2. Complete the questionnaire, sign it and return it to the *principal*. Principals wishing to forward the completed questionnaires to the superintendent can do so, attaching their own comments.

Please note that members cannot waive their rights and responsibilities under the Code. Principals should not encourage the school staff to take part in such a procedure and should call Member Services staff at Barnett House or SARO for further advice.

A completely separate procedure is one in which the *principal* asks staff for an evaluation, the purpose of which is to improve his or her own effectiveness. In this case, staff are free to participate. No copy of their comments would go to the superintendent.

Evaluations by Administrators

Section 15(h) of the *School Act* requires principals to evaluate the teachers employed in the school. In doing so, the principal needs to be aware of the provisions of the Code of Professional Conduct. The sections quoted above also apply to the evaluation of teachers by principals. If the administrator needs to advise district officials of concerns about the professional competence of a colleague, that colleague must be informed in advance of the criticism. Similarly, if a teacher reports on the professional performance of another teacher, the teacher being reported on must be provided with a copy of the report before it is submitted. The ATA's Discipline Committee has found several administrators guilty of breaching these provisions. The provisions of sections 13 and 14 do *not* apply if a teacher or administrator is reporting possible unprofessional conduct to the ATA.

Boards of Reference

School administrators are sometimes asked to serve as witnesses at Boards of Reference involving teachers they have supervised. The ATA has a duty to fairly represent the teacher whose case is being heard. ATA legal counsel will undoubtedly cross-examine the administrator, who will likely be appearing as a witness for the employing board. While the ATA does not provide counsel for the administrator, Member Services staff can provide advice on process. Administrators who find themselves in this situation should contact the appropriate individuals (see section on *Contacts/Resources*) well in advance of such a hearing.

How The Classroom Teacher is Affected

Experience in other jurisdictions where administrators have been removed from the teacher organization has not been positive. In such situations, the school principal becomes the enforcer of the collective agreement and frequently loses much latitude in operating the school. Relations between classroom teachers (represented by a "shop steward") and the principal can be very strained, a situation that benefits neither the school staff nor the students. The ATA believes that the collegial model of school administration is workable and encourages both classroom teachers and school administrators to work in harmony, understanding the stresses and strains that face school staffs today.

Questions for Discussion

Administrators may wish to consider the following questions:

1. How can administrators be seen as ATA members?

2. What additional services does the ATA need to provide its administrator members?
3. What impediments are there to the collegial model of school administration and how can these be overcome?
4. How can administrator concerns and needs be included effectively in revisions to collective agreements?
5. How can administrators be represented effectively on bargaining committees and in the local structure?

Contacts/Resources

Contact Persons

Three executive staff members in the ATA's Member Services program area have been designated contact persons for school administrators having questions about procedure and practice with respect to such matters as professional relations, discipline, transfers and terminations. Administrators are urged to phone for advice at any time and well before situations become critical.

Dan Garvey and Denele Somshor-Walsh can be contacted at Barnett House, 11010 142 St NW, Edmonton AB T5N 2R1. Telephone 453-2411 (Edmonton) and toll-free 1-800-232-7208.

David Jeary can be contacted at the Southern Alberta Regional Office, #200, 540 12 Avenue SW, Calgary AB T2R 0H4. Telephone 265-2672 (in Calgary) or toll-free 1-800-332-1280.

The above serve as administrator contact persons in addition to their other duties of providing advice to all teachers. Please note that if one of the above has already been contacted for advice by a classroom teacher involved in a conflict situation with you, you will be referred to one of the other administrator contacts for advice.

Professional Development Offerings

Educational Leadership Academy (ELA): The academy is a six-day summer program for principals, assistant principals and others in leadership positions. ELA is sponsored by the Council on School Administration (CSA) and the ATA, in collaboration with the four Alberta universities, the Department of Education and the College of Alberta School Superintendents. The academy is also supported by the Alberta School Boards Association. Issues and topics change from year to year. For further information on ELA, contact Denele Somshor-Walsh at Barnett House.

Collaborative Decision-Making Inservice

Program: This program, another joint undertaking of CSA and the ATA, is designed to assist school-based administrators in planning and implementing collaborative or shared decision-making in schools. The program, which consists of four two-day sessions, is available in each CSA region in the province. Depending on the choice of the participants, the program can be presented in one year or stretched over two years. Jurisdictions and regions can also opt for single modules. The ongoing nature of the program will facilitate the development and practice of skills and attitudes necessary to implement effective school-based decision-making. For further information, contact Noreen O'Haire at Barnett House.

Workshops and Seminars: A variety of workshops and seminars are available to help administrators meet their leadership responsibilities and improve their schools. Further information is available from Denele Somshor-Walsh or Dan Garvey in Barnett House or from Dave Jeary in SARO.

For Groups of Administrators:

Administrators and the Law
 Collaborative Decision Making
 Dealing With Parent Concerns
 Dealing With Unsatisfactory Performance
 Legal Liability
 Professional Evaluation of Colleagues
 Professionalism
 School Councils
 Sexual Harassment in Schools: Your Liability
 Teacher Liability
 Working Together
 The Law and the Teaching Profession

For School Staffs

A Teacher Evaluation Policy Model
 Analyzing and Improving Teaching Practice
 Breaking the Barriers: Confronting Stereotyping and Discrimination
 Classroom and School Discipline
 Cooperative Learning - Levels I, II and III
 Creating a School Mission and Vision
 Dealing with Conflict
 Global Education Workshops
 Goal Setting and Planning
 Parents as Partners
 Portfolio Assessment
 School and Program Evaluation
 Sexual and Common Assault
 Shared Decision Making Workshop for Schools
 Student Assessment, Evaluation and Reporting
 Student Motivation
 Taking Charge of Curriculum
 Teacher Liability

Teacher Wellness
The Inclusive Classroom: Dealing with Diversity
Team Building
Working Together

Publications

The following ATA publications, available from Barnett House, contain information that may be of interest to administrators:

PR Tips for Principals
Public Relations Kit for Principals
Principal's Guide to School Public Relations
School and Program Evaluation: A Manual for Teachers
Self-Evaluation Guide for Teachers
Administrator Evaluation Policy Model
Teacher Evaluation Policy Model

How Can We Help?

The ATA would like to hear from you on how it can improve services to administrators. Please send your suggestions to Dr Julius Buski, Executive Secretary, The Alberta Teachers' Association, Barnett House, 11010 142 St NW, Edmonton AB T5N 2R1 or by telecopier to (403) 455-6481.

Council on School Administration

The Council on School Administration (CSA) is a specialist council of The Alberta Teachers' Association. Acting within the bylaws of the Association, CSA is an active, province-wide advocate for school administrators, charged with the task of articulating and addressing member concerns and improving administrative practices in education. Executive and committee representation is solicited from a wide cross section of members through the province.

The following, in no ranked order, are the basic belief statements supported by the CSA. The CSA believes in

- acting in the best interests of children by working with staff in the schools, with parents and with the community. CSA members believe children to be a special trust and will speak out on their behalf through The Alberta Teachers' Association;
- supporting the professional development needs of its members through the creation and delivery of a variety of professional development events and activities including the regular distribution of its various publications;

- recognizing excellence in administration. A recognition program acknowledges the special contributions of members at both the local and provincial level;
- developing and maintaining links with other school administrator organizations nationally and throughout the world;
- lifelong learning and the importance of maintaining and nurturing relationships with the universities and colleges of Alberta; and
- encouraging and supporting theoretical and practical research which expands the knowledge base of educational administration.

CSA offers:

- professional development growth through regional workshops, the Western Canada Educational Administrators' Conference, the Banff Leadership Seminar and the Educational Leadership Academy
- quality publications and newsletters
- automatic membership in the Canadian Association of Principals (CAP)
- recognition of outstanding contributions to the field of education through its Distinguished Service Awards program
- active liaison with The Alberta Teachers' Association
- a collective voice on major educational issues.

Membership Classifications

Regular

Members of The Alberta Teachers' Association, as specified in ATA bylaws, are eligible for regular membership in CSA. All such members are entitled to full privileges of council membership including the rights to vote and to hold office.

Student

Students members of the ATA may join the council and are entitled to all the benefits and services of council membership except the right to hold office.

Affiliate

Persons who are not ATA members as specified in the ATA bylaws may join this specialist council as affiliate members. Such members are entitled to all the benefits and services of council membership except the rights to vote and to hold office.

How to Join

For further membership information or to join the Council, please contact Lucille Spiller at Barnett House.

