



PLEASE NOTE

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CHAPTER S-2.1

SCHOOL ACT

INSTRUCTIONAL PERSONNEL REGULATIONS

Pursuant to section 147 of the *School Act*, R.S.P.E.I. 1988, Cap. S-2.1, Council made the following regulations:

1. The following contracts apply to instructional personnel Contract forms
 - (a) Form 7A - Probationary contract, applies to full-time or part-time instructional personnel who are probationary employees of a school board;
 - (b) Form 7B - Permanent Contract, applies to full-time or part-time instructional personnel who are permanent employees of a school board;
 - (c) Form 7C - Fixed Term Contract, applies to full-time or part-time teachers who are not permanent or probationary employees of a school board;
 - (d) Form 7D - Supervisory Contract, applies to instructional personnel who are designated supervisory employees of a school board. (EC481/98)

2. (1) A school board may employ, as a substitute for a teacher, a person Substitute teachers who holds a valid authorization issued by the Minister, pursuant to section 4 of the Act.
 - (2) Forms 7A, 7B, 7C and 7D do not apply to substitutes for teachers. Forms do not apply
 - (3) Substitutes for teachers have no right of appeal and no right of action in any court or tribunal respecting the failure of any school board to employ them or to call them into work. No right of appeal to substitutes
 - (4) Other sections of these regulations do not apply to substitutes for teachers. (EC481/98) Not applicable to substitutes

3. (1) The Minister may suspend or revoke an instructional license under subsection 3(2) of the Act, by giving written notice to the teacher in accordance with subsection (2). Suspension, revocation of instructional license
 - (2) The notice required by subsection (1) shall give the effective date of the suspension or revocation and the reasons for the suspension or revocation. (EC481/98) Effective date, reasons

4. (1) Where the Minister has sent a written notice of suspension or revocation of an instructional license in accordance with section 3, the School board to suspend after notice

Minister shall immediately, in writing, advise the school board which employs the teacher of the effective date of the suspension or revocation of the instructional license, and the Unit Superintendent shall forthwith suspend the teacher, by written notice.

Dismissal	(2) The school board shall dismiss the teacher, by written notice, in the event that <ul style="list-style-type: none"> (a) an appeal of the revocation of the license is not initiated and completed in accordance with section 13; or (b) the revocation of the license is confirmed on appeal.
Hearing by school board not required	(3) Revoked by EC61/05. (EC481/98; 61/05)
Written notice of suspension	5. A teacher suspended under section 91 of the Act shall be provided with written notice of the suspension setting out the reasons for and duration of the suspension. (EC481/98; 61/05)
Suspension with or without pay	6. A school board or its designate shall determine whether a suspension under subsection 91(1) of the Act is with or without pay. (EC481/98; 61/05)
Personal service or registered mail	7. (1) Notices to a teacher, required by sections 3, 4 and 5, may be served personally on the teacher, or sent by registered mail which shall be deemed to have been received by the teacher 5 days after mailing the notice.
Effective date of suspension	(2) A notice under section 5, if it is served personally on the teacher, may state that the suspension starts immediately or at any specified time after the service. (EC481/98) Sections 8 to 12 revoked by EC61/05.
Notice of appeal	13. (1) A teacher may commence an appeal under subsection 5(1) of the Act by giving a written notice of appeal to the Minister not later than 15 working days after the date of the suspension or revocation by the Minister under subsection 3(2) of the Act.
Appeal respecting suspension or dismissal Notice to other Minister	(2) Revoked by EC61/05. (3) Within three days of the receipt of a notice of appeal under this section, the Minister shall send a copy of the notice of appeal to the Minister responsible for labour. (EC481/98; 594/00; 61/05)
Board of Reference	14. (1) The Minister responsible for labour shall appoint a Board of Reference to hear an appeal under subsection 5(1) of the Act.
Composition of Board of Reference	(2) The Board of Reference shall be comprised of the following <ul style="list-style-type: none"> (a) a nominee of the teacher;

- (b) a nominee of the school board or the Minister as the case may be; and
- (c) a chairperson to be appointed in accordance with this section.
- (3) The parties shall name their nominees to the Board of Reference within 15 days of the teacher's notice of appeal. Party appointees
- (4) Where a party fails to name a nominee as required by subsection (3), the Minister responsible for labour shall appoint a person to the Board of Reference to serve on behalf of that party. If party fails to name appointee
- (5) The Minister responsible for labour shall appoint the members of the Board of Reference representing the parties, within 10 days of the receipt of the nominees names or within 10 days of the expiry of the deadline set out in subsection (3), as applicable. Appointment of Board
- (6) The nominees of the parties shall, within 20 days of their appointment, appoint a third person to act as chairperson. Chairperson
- (7) In the event that that the nominees fail to agree on a chairperson as provided in subsection (6), either nominee may request that the Minister responsible for labour appoint a chairperson. (EC481/98; 594/00; 61/05) Failure to agree on chairperson
- 15.** The Board of Reference has the power Powers of Board of Reference
- (a) to hear and determine the teacher's appeal;
- (b) to administer oaths and affirmations; and
- (c) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence, and to produce documents. (EC481/98)
- 16.** Except where otherwise provided in these regulations, a Board of Reference may determine its own procedure respecting the hearing, and it shall give the parties the opportunity to be heard and to be represented by counsel or the authorized representative. (EC481/98) Determines own procedure
- 17.** (1) The chairperson of the Board of Reference shall give notice to the parties of the date, time and place of the hearing. Notice of hearing
- (2) The three members of the Board of Reference constitute a quorum. Quorum
- (3) The decision of the majority of members of the Board of Reference shall govern on questions of procedure, admissibility of evidence and other matters which arise during the hearing, but lacking a majority decision, the decision of the chairperson shall govern. (EC481/98) Procedure
- 18.** (1) Where the hearing is respecting a suspension of an instructional license, the Board of Reference may confirm the suspension, or reduce or Powers respecting suspension of license

increase the period of suspension or order the reinstatement of the instructional license with or without conditions.

Benefits	(2) If the decision of the Board of Reference is to reduce the period of suspension of the instructional license, the Board shall credit the teacher with the benefits that would have accrued to the teacher for the period not covered by the suspension. (EC481/98)
Powers respecting revocation of license	19. (1) Where the hearing is respecting a revocation of an instructional license, the Board of Reference may confirm the revocation, substitute a period of suspension of the instructional license for the revocation, or order the reinstatement of the instructional license, with or without conditions.
Benefits	(2) If the decision of the Board of Reference is to substitute a period of suspension of the instructional license for the revocation of it, the Board shall credit the teacher with the benefits that would have accrued to the teacher, for the period not covered by the suspension.
<i>Idem</i>	(3) If the decision of the Board of Reference is to reinstate the instructional license, the Minister shall reinstate the instructional license and the school board shall credit the teacher with the benefits that would have accrued to the teacher if the instructional license had not been revoked. (EC481/98)
Sections 20 and 21 revoked by EC61/05.	
Powers respecting dismissal	22. (1) The Board of Reference shall render its written reasons for decision within 30 days of the completion of the hearing, and it shall provide copies of its decision to the Minister of Education and to the parties.
Written reasons	
Majority decision	(2) A decision of a majority of members of the Board of Reference shall be the decision of the Board of Reference.
Minority report	(3) A member of the Board of Reference may submit to the parties and to the Minister of Education, a minority report.
Decision final	(4) The decision of the Board of Reference shall be final and binding upon the parties, and shall not be the subject to the review of any court or tribunal. (EC481/98)
Payment of fees and expenses	23. Each party to the appeal shall pay <ul style="list-style-type: none"> (a) the fees and expenses of its nominee; (b) one-half of the fees and expenses of the chairperson; and (c) one-half of the secretarial and other expenses necessary for the carrying out of the duties of the Board of Reference. (EC481/98; 06/05)

24. “Parties” for the purposes of collective bargaining with instructional personnel, means the Education Negotiating Agency and the authorized representative appointed by the Minister responsible for labour under these regulations. (EC481/98; 594/00; 61/05)

“Parties”, defined

25. The authorized representative for instructional personnel shall be the Prince Edward Island Teachers’ Federation, so long as a majority of the instructional personnel employed in the province has authorized it to represent them for negotiation purposes. (EC481/98)

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26. (1) Where any other teacher organization claims to represent a majority of the instructional personnel employed in the province, it may, in accordance with subsections (2) or (3), apply to the Minister responsible for labour for a declaration that the teacher organization designated as the authorized representative no longer represents a majority of the instructional personnel employed in the province.

Other teacher organization may apply for declaration

(2) Where the collective agreement in force is for a term of one year, an application under subsection (1) may be made only after the beginning of the fourth month of its term and before the end of the fifth month of its term.

Time of application

(3) Where the collective agreement in force is for a term of more than one year, an application under subsection (1) may be made only during the eighth and ninth months prior to the expiry of the collective agreement. (EC481/98; 594/00; 61/05)

Idem

27. Where, in the opinion of the Minister responsible for labour, the teacher organization designated as the authorized representative no longer represents a majority of the instructional personnel employed in the province, the said Minister shall revoke the designation of that teacher organization as the authorized representative, but nothing in this section prevents the teacher organization from making application to be reinstated as the authorized representative. (EC481/98; 594/00; 61/05)

Revocation of authorized representative

28. Notwithstanding section 25, where the Minister responsible for labour has revoked the recognition of a teacher organization as the authorized representative in accordance with section 27, any teacher organization may submit, at any time before the designation of a new authorized representative, an application to be designated as the authorized representative of the instructional personnel employed in the province. (EC481/98; 594/00; 61/05)

Application to be designated as authorized representative

29. In preparation for the negotiation of a collective agreement, the parties shall

Preparation for negotiation

- (a) not later than six months (excluding July and August) before the expiry date of the current collective agreement meet to determine the data and information that each should make available to the other;
- (b) not later than four months (excluding July and August) before the expiry date of the current collective agreement, meet to present and analyze the data and information that each has collected in accordance with clause (a); and
- (c) prior to the commencement of formal negotiations, attempt to resolve as many issues as possible through mutual consultation. (EC481/98)

Notice to
commence
negotiations

30. (1) Within a period of three months and 14 calendar days (excluding the months of July and August) preceding the expiry date of the collective agreement in force at the time either party may, by notice in writing, require the other party to commence formal negotiations with a view to the renewal or revision of a collective agreement or the adoption of a new collective agreement.

Consent to
negotiate

(2) The parties to a collective agreement may negotiate at any time by mutual consent. (EC481/98)

Meet within 14
days

31. When one party has given notice under section 30, representatives of the parties shall meet, within 14 working days of the notice, and commence negotiations with a view to the renewal or revision of a collective agreement or the adoption of a new collective agreement. (EC481/98)

No discontinuance
on grounds of
improper notice

32. (1) Where the negotiations have commenced, neither party shall discontinue or withdraw from the negotiations on the ground that no notice, or improper or insufficient notice has been given under section 30.

Copy of notice to
Minister

(2) Where a party has given notice under section 30, a copy of such notice shall be delivered to the Minister of Education. (EC481/98)

Collective
agreement remains
in force

33. (1) A collective agreement adopted under this Part remains in force until a new collective agreement is adopted to replace it.

Minimum,
maximum

(2) Every collective agreement adopted under the provisions of this Part shall have a minimum term of at least one year and a maximum term of not more than three years.

Retroactive
provisions

(3) All provisions of a new teacher agreement with respect to salary, special allowances and supplementary financial benefits shall be retroactive to the day following the expiry date of the preceding teacher agreement. (EC481/98)

34. Where a notice to commence negotiations has been given under section 30 and

Appointment of
conciliation officer

(a) negotiations have not commenced within the time prescribed by section 31;

(b) negotiations have commenced and continued for 45 calendar days, and either party requests the Minister responsible for labour in writing, to appoint a conciliation officer to confer with the parties to assist them in concluding a collective agreement or a renewal or revision thereof, and such request shall be accompanied by a statement of the difficulties that have been encountered before the commencement or in the course of negotiations; or

(c) in any other case in which, in the opinion of the Minister responsible for labour, it is advisable to do so,

the Minister responsible for labour shall, within 15 working days of receiving the request, appoint a conciliation officer to confer with the parties engaged or proposed to be engaged in negotiations. (EC481/98; 594/00; 61/05)

35. (1) The conciliation officer appointed under section 34 shall inquire into the matters of dispute and endeavour to bring about agreement between the parties.

Duties of
conciliation officer

(2) The conciliation officer shall submit a report to the Minister responsible for labour

Report of
conciliation officer

(a) within 10 working days of a successful conclusion to the conciliation; or

(b) where the parties fail to reach an agreement within 20 working days of the appointment of a conciliation officer, conciliation shall cease, and the report shall set out the matters agreed between the parties and those matters upon which the parties cannot reach agreement. (EC481/98; 594/00; 61/05)

36. (1) The conciliation officer shall be paid such remuneration as the Minister responsible for labour determines, and it shall be shared equally between the Minister of Education and the authorized representative.

Remuneration of
conciliation officer

(2) With the approval of the Minister responsible for labour, the conciliator may secure such secretarial and other services as may be necessary for the efficient carrying out of the duties of conciliator, with such costs to be shared equally by the Minister of Education and the authorized representative. (EC481/98; 594/00; 61/05)

Other costs

37. Where the parties have not adopted a new or revised teacher agreement on the expiry date of the existing teacher agreement and

Arbitration Board

(a) either party requests in writing, the appointment of an Arbitration Board; or

(b) in the opinion of the Minister responsible for labour, an Arbitration Board should be established, the Minister responsible for labour shall give notice to the parties to name their appointees under section 38. (EC481/98; 594/00; 61/05)

Members of
Arbitration Board

38. (1) An Arbitration Board shall be comprised of
(a) a nominee of the Education Negotiating Agency;
(b) a nominee of the authorized representative; and
(c) a third member as chairperson to be appointed in accordance with this section.

Party appointees

(2) The parties shall name their nominees to the Arbitration Board within 30 days of notice by the Minister responsible for labour that an Arbitration Board will be appointed.

Failure to name
appointee

(3) Where a party fails to name an nominee as required by subsection (2), the Minister responsible for labour shall appoint a person to the Arbitration Board to serve on behalf of that party.

Appointment of
Arbitration Board

(4) The Minister responsible for labour shall appoint the Arbitration Board members representing the parties, within 30 days of the notice given under section 37.

Chairperson

(5) The appointees representing the parties shall, within 30 days of their appointment, appoint a third person to act as chairperson.

Failure to agree on
chairperson

(6) In the event that the appointees fail to agree on a chairperson as provided in subsection (5), either appointee may request that the Minister responsible for labour appoint a chairperson. (EC481/98; 594/00; 61/05)

Powers of
Arbitration Board

39. (1) An Arbitration Board has the power
(a) to hear and determine the matters in dispute between the parties to the collective agreement;
(b) to administer oaths and affirmations;
(c) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence and to produce documents.

Determines own
procedure

(2) Except where otherwise provided in these regulations, an Arbitration Board may determine its own procedure respecting the hearing, and it shall give the parties the opportunity to be heard and to be represented by counsel and/or the authorized representative.

Matters to be dealt
with by Board of
Arbitration

(3) The Board of Arbitration shall deal with matters not resolved through consultation, negotiation or conciliation; but it may, after consultation with the parties, consider previously resolved matters in order to arrive at its decision. (EC481/98)

40. (1) Within 10 working days of the appointment as chairperson, the chairperson of the Arbitration Board shall give notice to the parties of the date, time and place of the hearing, which shall be set for not more than 30 days after the appointment of the chairperson. Notice of hearing

(2) The chairperson and one other member of the Arbitration Board constitute a quorum and, in the case of the absence of any member from a meeting of the board, the other two members shall not proceed unless satisfied that the third member had been notified in ample time to permit the member's attendance. Quorum

(3) Notwithstanding any other provision of these regulations, in the case of the absence of any member due to illness or other reasonable cause, the other two members shall not proceed until the absent member has returned or has been replaced. Absent member

(4) The decision of the majority of the members of an Arbitration Board shall govern on questions of procedure, admissibility of evidence and other matters which arise during the hearing, but, lacking a majority decision, the decision of the chairperson shall govern. (EC481/98) Procedure

41. (1) The Arbitration Board shall make its award based upon a consideration of Considerations in making award

- (a) the relationship of income and other benefits for teachers to those available to teachers in other Atlantic provinces, giving appropriate consideration to the varying provincial economic capacities, including available assistance from outside sources;
- (b) the trends and inter-relationship of pay and other factors within various professional and non-professional groups in both the private and public sectors;
- (c) the requirement to obtain and retain competent teachers within the school system;
- (d) the relationship between pay, professional qualifications and responsibility;
- (e) such other factors as may be relevant including conditions of work and fringe benefits.

(2) After making full inquiry, the Arbitration Board shall make an award, setting out its decision, within 20 working days of the hearing, as to the manner in which all matters in dispute between the parties shall be settled. (EC481/98) Award within 20 days

42. (1) The award of the Arbitration Board shall be signed by the members concurring therein, and copies of the award shall be provided to the parties and to the Minister of Education. Members sign award

Majority award	(2) A decision of, or award of, a majority of the members shall be the decision of the board.
Minority report	(3) A member of the board may submit to the parties and to the Minister of Education, a minority report.
Award binding	(4) An award of an Arbitration Board is binding upon all persons bound by the collective agreement and all such persons shall do or abstain from doing anything required of them by the award. (EC481/98)
Collective agreement after award	43. Within 30 working days of the date of an arbitration award, the parties shall prepare and sign a collective agreement embodying all matters settled in the award together with all matters previously agreed upon in negotiation or conciliation between the parties. (EC481/98)
Fees and expenses	44. Each party to the arbitration shall pay <ul style="list-style-type: none"> (a) the fees and expenses of its appointee; (b) one-half of the fees and expenses of the chairperson; and (c) one-half of the secretarial and other expenses necessary for the carrying out of the duties of the arbitration board. (EC481/98)
Variation of time	45. (1) Notwithstanding any other provision of these regulations, the parties to a hearing under this Part may, by mutual consent, waive, alter or vary the time required for doing anything or the coming into effect of anything under these regulations.
Technicalities	(2) No proceedings in these regulations shall be deemed invalid merely by reason of defect in form or a technical irregularity. (EC481/98)
<i>Arbitration Act</i> does not apply	46. The <i>Arbitration Act</i> , R.S.P.E.I. 1988, Cap. A-16 does not apply to an arbitration under these regulations. (EC481/98)