



Submission to the
Ministry of Education
on Fair Hiring Practices



The Ontario English Catholic Teachers' Association (OECTA) represents the 45,000 passionate and qualified teachers in Ontario's publicly funded English Catholic schools, from Kindergarten to Grade 12.

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OECTA is prepared to share its views with the government on Regulation 274 and the matter of class size and Full-day Kindergarten. We believe that our participation in this process is in the interest of the students in particular and the education system in general. However, OECTA is firmly of the view that these three issues are issues for collective bargaining under the *School Boards Collective Bargaining Act*. In particular, these matters are and have been issues for central bargaining under the Act in which the government is a participant in the collective bargaining process. Our participation in these discussions should not be viewed as a waiver of the rights of OECTA and/or its members to legally challenge any government decisions and/or actions which may result in prejudicing or infringing upon our statutory or constitutional rights. Once again, we urge the government to deal with these three issues in central bargaining, which is to commence this summer. Any government decisions and/or actions resulting from this process which affect OECTA and its members will be viewed as a circumvention of our statutory rights and a violation of our constitutional rights.

CONTEXT FOR ESTABLISHING REGULATION 274/12

The purpose of enacting a government regulation is to bring order to a situation in which inconsistency and/or disorder are the norm. Such was the case with Regulation 274, which established an objective, transparent, and consistent approach to school board hiring practices.

For many years, the school board hiring process was both unclear and inequitable. In a 2013 report produced for the Peel District School Board (PDSB), researchers found the board possessed neither the accountability nor monitoring mechanisms necessary to ensure fair hiring. As a result, the authors concluded, "The extent to which [principals] conduct a bias-free hiring process... is dependent on their personal understanding and commitment, rather than any requirement to meet Board objectives in these areas" (Turner Consulting Group 2013).

The PDSB report confirmed what many had suspected: nepotism and cronyism often motivated school board hiring decisions. Testimonials from across the province accused principals of circumventing collectively bargained fair hiring practices; in many cases, qualified teachers were passed-over for no reason other than they lacked a personal connection to an administrator (Brown 2013). A respondent in the PDSB study captured the pervasive sense of inequity and frustration: "I have seen fresh graduates out of teachers college getting jobs right away because they're teachers' or principals' friends, or they're [the] principal's son/daughter/niece/nephew, or their friend's son/daughter/niece/nephew. Whereas we have been

struggling for 3–4 years to get even one [long-term occasional position] just because we don't have any contacts" (Turner Consulting Group 2013).

Without a procedural framework or specific criteria, the school board hiring process lacked transparency. During committee hearings for Bill 115, the *Putting Students First Act*, President of OECTA's Dufferin–Peel Occasional Teacher Bargaining Unit, Jean Smylie, presented committee members with school board data, which showed that of the 389 long-term positions for September 2012 in that board, more than 93 per cent were filled by school administrators, but were not posted publicly. As Ms. Smylie explained to the committee, this meant that nearly 1,000 occasional teachers in Dufferin–Peel were made aware of only 17 positions to which they could apply (Ontario 2012).

This lack of transparency also contributed to rampant inconsistency in the hiring process. For instance, candidates for permanent positions were frequently given no feedback as to why they were unsuccessful, or how they could improve their application. The reason, the PDSB report found, was that a number of principals discarded competition files within months of a hiring decision, while other principals retained some, but not all relevant documents in these files (Turner Consulting Group 2013).

INTENTION OF REGULATION 274/12

Regulation 274 established mandatory terms and conditions for the hiring process. By establishing an equitable procedural framework for school

board hiring, the regulation brought transparency, fairness, consistency, and accountability to school board hiring practices, in a way that aligns with the government's goals of student achievement and well-being.

Unfortunately, there are several misconceptions regarding the intention and effect of Regulation 274, which should be corrected. First, contrary to some claims, Regulation 274 does not reduce the hiring process to seniority alone. In reality, teachers must attain the appropriate qualifications, have held an occasional teaching (OT) role, worked 20 days over a 10-month period as an OT, received positive performance reviews, and been placed onto the long-term occasional (LTO) list after having passed an interview conducted by school administrators, before they are eligible to interview for a permanent position. Seniority helps to organize the OT and LTO lists, but it is only one factor used to populate the hiring pool, from which a final candidate is selected.

Others claim that Regulation 274 restricts administrators' hiring autonomy. However, this is a fallacy. Regulation 274 establishes a transparent procedural framework, which populates a pool of five qualified candidates to be interviewed for a permanent position. Principals retain complete authority to hire whomever they wish from that pool. As well, the New Teacher Induction Program requires teachers to undergo two evaluations, conducted by an administrator, within a 12-month period. NTIP plays a role in assuring that teachers are competent prior to being placed into LTO assignments and permanent positions. It provides for two evaluations,

as well as professional development where a school administrator deems improvement is needed.

As the regulation stipulates, a teacher cannot advance to the LTO list or hiring pool if they receive an unsatisfactory evaluation. Thus, administrators possess multiple opportunities and methods to exercise hiring autonomy and ensure students are receiving instruction from well-trained teachers. Speaking to the Ontario Legislature in 2012, then-Minister of Education Laurel Broten put the matter succinctly: "Management will still make the ultimate decision about who to hire, but that role comes with the responsibility to create a process that can be accessed equally by everyone and understood by all" (Ontario 2012).

Closely related to autonomy is the claim that Regulation 274 leaves administrators unable to hire the "most qualified" individual for a permanent position. In one sense, this statement is illogical. In the teaching profession, qualification is a binary distinction, not a scale. A person is either a credentialed, qualified teacher, or they are not; without the requisite qualifications (as per Regulation 298: Operation of Schools – General), one cannot advance to the LTO list or hiring pool. On this point, research conducted on behalf of the Ministry of Education was conclusive: "There were **no instances** that the Regulation's application resulted in a teacher being employed in a position for which he/she was not qualified" (Baumann and Ungerleider 2014). Complaints that administrators cannot hire the "most qualified" candidate or "find the best fit" should be viewed for what they are: attempts to remove a procedural framework based on equity,

consistency, and transparency, and return to a subjective hiring process in which administrators can hire whomever they wish, for whichever reasons they wish. In reality, this would reproduce the problems Regulation 274 was designed to correct.

Finally, some observers have noted a desire to increase diversity in the teaching profession, especially with respect to racialized teachers, and argue that Regulation 274 is an impediment to this objective. However, a report to the Ministry of Education examined the relationship between Regulation 274 and diversity, and reached the following conclusion: "In our view, Regulation 274 is consistent with both the intentions of the Ontario Human Rights Commission, the Ministry [of Education]'s agreement with the Commission, and Ministry policy directives because it brings transparency and fairness to the hiring process. Transparency and fairness in hiring processes as objectives do not conflict with diversity objectives" (Baumann and Ungerleider 2014).

IMPACT OF REGULATION 274/12

Research for the Ministry of Education on the impact of Regulation 274 is clear: "Where Regulation 274 has been fully implemented, it has increased transparency, fairness, consistency and accountability in the hiring process." The report details a number of situations where qualified occasional teachers who had previously been overlooked were finally granted interviews for permanent positions (Baumann and Ungerleider 2014).

The report also speaks to a number procedural improvements in clarity and transparency: "Notices of vacant positions have been posted to enable all eligible teachers to determine whether they wish to make application; the criteria by which applicants were judged were made clear to them in advance of the interviews; the interview process was conducted with procedural fairness; unsuccessful applicants were informed and provided with feedback through debriefing that affords them the opportunity to improve; and school boards routinely provide unions with the information necessary for them to safeguard the interests of their members." As an added benefit, the requirement for boards to compile OT and LTO lists resulted in improvements to data collection, consistency, and transparency practices (Baumann and Ungerleider 2014).

Overall, Regulation 274 has achieved its objectives. Where hiring issues have persisted, the report found this was more likely because school boards had "sought and found workarounds to permit them to reduce or avoid the requirements of regulation 274 to post and fill from the long term occasional list" (Baumann and Ungerleider 2014).

CONCLUSION

Prior to enacting Regulation 274, news reports and anecdotes from across Ontario highlighted instances where employers based hiring decisions on questionable grounds. At the same time, a lack of procedural clarity meant that candidates for teaching positions were often unsure of what jobs were available, who was eligible to apply, what criteria were being used to fill a

position, and why a particular candidate was successful or unsuccessful. Ministry of Education research and qualitative evidence from classroom teachers (Appendix A) show Regulation 274's effectiveness in creating an equitable procedural framework that is objective and consistent, and that promotes transparency and accountability. While it is true that improvements can be made, discussions regarding specifics are best reserved for their proper legal forum: the collective bargaining process. OECTA looks forward to engaging in these discussions at the appropriate time and in the appropriate context.

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APPENDIX A

Below are some perspectives from classroom teachers on the benefits of fair hiring practices, collected after the policy's implementation.

"I am now at the start of my 7th year teaching and only just got a permanent job this September. Unfortunately, this is not an uncommon story for many of my colleagues and friends who graduated with me.

In the six years leading up to my permanent job, I completed many days of supply teaching, from Kindergarten to Grade 8. I worked nine LTO's in the primary and junior divisions. I love working in the school and participated as much as I could in the culture of the schools I joined. I coached teams during and after school and joined other committees within the school. I stayed late many nights to organize and decorate for Christmas concerts, Variety shows, Welcome to Kindergarten, and any other school events. I also took different additional qualification courses and participated in different professional development opportunities.

Even with hard work, successful teaching evaluations, and glowing references from principals and other teachers I worked with, I was not able to get a permanent job. My education, hard work, experience and pure passion for teaching didn't matter – what mattered was knowing the right people and being in the right place at the right time. I watched many people who got hired with less seniority and experience than me. I don't want to say they were less deserving – I just wish that I had an opportunity to apply and interview for those positions.

Finally, this year, our board implemented a fair hiring practice – I don't think it's a coincidence that this is the year I got hired. Not only me – but many of my teaching friends who have been waiting so long are finally permanent. This fair hiring practice is what allowed me to apply for positions that I would never have even known about before. It allowed me to have a chance! To go on interviews and finally be able to show that I deserved a permanent position.”

“I had been waiting for a permanent spot for five years. I wouldn't get called for interviews, or when I'd go on interviews I would hear that people who knew the principal got the jobs. I was unfortunate in that the principals I worked for never had positions to offer me mid year.

Once I went on an interview and I knew the person going on mat leave and she put in a good word for me. She called me a few days later upset and said she met the person who got the job and they were quite proud of the fact that they got it because they were a family friend of the principal. As someone with excellent evaluations, positive regencies, several AQs, and a Master's degree (and who seemed to do well in interviews), this was very disheartening.

Last year I got hired for a partial-year LTO again in August, before the fair hiring practice came into play, but for the first time in five years, I was able to pick up an LTO at the end of the year and I believe it was because of the fair hiring practice. At the end of the year in August I was called for three permanent positions and finally was hired for a permanent.

I had NEVER been called for an interview for a permanent spot before this year. I feel that I was hired for my knowledge and merit – I had no personal connections and had never met the principal before. I hope this policy stays because I know a lot of people who have been waiting a long time and are still waiting for their chance for permanent too."

"All our hard work is starting to pay off. For the most part, those of us who have worked for six, seven, or eight years as occasional teachers are starting to see a great deal of fairness and equity in work being distributed, and hiring for LTO positions. Throughout the schools, there seems to [be] a vast improvement in the distribution of work, and the transparency in hiring LTO and permanent positions is much improved. Our system is really shining through.

The seniority list, and priority selections in schools has made for a fair hiring system for all, as we are being put into a fair order. We are great teachers at the end of day, specific to areas of strength, and I believe all of us will [be able to find permanent work] in the profession we so passionate about."

"Without this process, I would still be subject to nepotism! I was able to get my contract not only because the permanent positions are now transparent and I was able to apply, but because my seniority and hard work to [complete additional qualification courses were] recognized. Also, I was fortunate to have worked at a really good school, develop relationships (just like we all do!) and when the positions came up, I applied, my qualifications were recognized, and the administrative team could choose the teacher that they wanted.

I truly feel that although I have many, many positive recommendations I could have languished on that list for an even longer time without this process."

"It is wonderful to finally have had someone read my resume! I waited thirteen years for that to happen. So often individuals were hired based on who they knew, or being in the right place at the right time.

To all those young teachers that are waiting to be hired, your chance will come. Just know that the new hiring process will be so much more beneficial for you also. If you [are] qualified for the job you will now get the opportunity to apply to many jobs. I don't disagree that there are very good young teachers out there waiting for jobs. However, there were also some very good senior teachers that were doing a lot of LTOs waiting to be hired, and never getting a fair chance."

"Being an LTO and supply teacher since 2008 was incredibly challenging, to say the least. There was absolutely no jobs or financial security, and I was often completely powerless and treated unfairly in situations.

[I was relieved to see the first] job postings online. Up until that point, I was completely frustrated by the system and deeply skeptical of supposed changes. Then, as I was wrapping up my [current LTO assignment] I felt this enormous sense of empowerment, relief and excitement for my new [permanent] job.

[The policy has] helped give occasional teachers hope and rights, as well as the ability to plan for the future."

"I think the most significant outcome of the fair hiring policy has been that it has made administrators approach the filling of LTO and permanent positions in a much more enlightened, respectful and fair manner.

Previously, there were several situations whereby I wanted to be considered for LTO and permanent positions, but due to non-transparent, unfair hiring practices I was not even given the opportunity to be considered. So hopefully this legislation will encourage others with many years of experience to seek these positions, if desired."

"I always got reviews that exceeded expectations on my evaluations, and [received] glowing recommendations from my administrators and parents in the community, but I never seemed to get a position. Often I would hear that a position was available and contact the school, only to find out it had been filled. I would hear later through staff that it was usually someone 'newer' [or] 'fresh out of school'... I was told once that a teacher with two years' experience had done her time and deserved a job more than me, only to find out she used to babysit for the principal. Another time I was passed over for the Godchild of one Admin., and another time for the daughter of a head secretary. It was disheartening, but I kept taking the in-services and going to courses and participating in everything.

Then [the fair hiring practice] came out. This summer I got called for several interviews, some went well, some were trying. I was turned down

for several positions but kept going. Then I got that call. It was as though a weight was lifted off my shoulders. I firmly believe I would not be here if not for [the fair hiring practice]. We were put on hold for six, seven, eight, or more years.

The [OT and LTO lists] might be tough for some to swallow. But those good teachers out there know they now have a chance. Because I was, and still am good at what I do and I have evaluations and students thank you letters to prove it, but without the [OT and LTO lists] I wouldn't have stood a chance against family loyalty and bloodlines. I am grateful for [fair hiring practices] and the hard work that went into negotiating it."