

TRUSTEE CONFERENCE REPORT

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Name of Conference: OPSBA Education Labour Relations & Human Resources Symposium – Just when you thought you’d seen it all...

Sponsoring Organization: OPSBA

Conference Dates: April 28, 2022

Location: Virtual

Workshops/Seminars/Presentations/Keynote Speeches Attended:

Public Education Panel

Isabelle Girard – Executive Director ACEPO, Rusty Hick Exec Director OPSBA, Yves Levesque ED AFOCSC, Nick Milanetti ED OCSTA. Moderator – Lucia Reece Director of Education Chair of CODE & PCODE, Algoma DSB

Panelists introduced themselves and their associations.

Questions

Challenges in collective bargaining as a group while maintaining focus on your particular students?

Panelists noted the importance of mutual respect, good communication, and understanding the impacts of decisions made at one table on those sitting at other negotiating tables. They agreed that there were more benefits than challenges associated with working together as they all ultimately have the same goals.

Question – Confidentiality needs to be balanced with transparency. Strategies for communicating with stakeholders while maintaining confidentiality?

Although the different associations have different ways of organizing their labour relations committees, they all agreed that communication is key. Those with confidential information must be very well-informed of the positions of their associations and be very cognizant of the reasons for confidentiality. Trust and respect are key.

Question - How do we balance confidentiality with communication and advocacy esp through social media?

Leverage relationships with MPPs and keep advocacy at a high level. Social media is generally not the forum for these types of conversations. Trustees need more training on the proper use of social media. We must take the high road and understand that even if other stakeholders or the media want to

Question – So many stakeholders, audiences. How do you honour those multiple viewpoints?

Panelists agreed that their role was more complex than the government or unions as we represent so many stakeholders. We have to understand and recognize all those stakeholders, decide early what our positions will be through consultation with various stakeholder, decide what we can compromise on and what we can't, and recognize that we won't be able to please everyone or get everything we want. Compromise is key.

Question – What have you learned re bargaining.

Bargaining is complex and not getting any easier but we have great negotiating teams. Preparation is key and it is our job to ensure the government understands the impact of their decisions.

Collective Bargaining for Trustees

Janet Edwards and Penny Mustin – OPSBA

Tony Brown – IN house counsel for the labour team.

This session was for trustees only.

Current School Board Issues Under the Occupational Health and Safety Act

Grant Nuttall & Nadine Zacks – Hicks Morley

Health & Safety overview

Major sources of obligation re H&S – Occupational Health & Safety Act & Education Act. OHSA focuses more on 'workers'. OHSA also has regulations that may come into play, e.g., there is a teacher regulation. Joint H&S committee obligations flow from the act as well, both their own obligations and the employee's obligation to the JH&S. Ed act has some health & safety often focused on pupils. Duties to provide H&S for pupils by staff.

WORK REFUSALS

This has happened more in the last two years. Important to follow the process in the Act.

A worker has the right to refuse work if they believe that one or more of 4 conditions is met. Generally in schools (not custodial) is based on workplace violence likely to endanger them or the physical condition of the workplace is likely to endanger them. There are some exceptions. Some worker whose work refusal would endanger others or whose work includes risk can't do this (e.g. police)

Teachers can't refuse work where the circumstances are such that the life, health or safety of a pupil is in imminent jeopardy. But this doesn't cover other ed workers.

Mass work refusals, often encouraged by unions, have occurred. Could raise issues of an illegal strike. All who participate have to follow the Act. If a mass refusal happens at one school, it may trigger the limited restriction for teachers to refuse work so that students are supervised. Key to move very quickly on this.

Work refusals re violence from students with exceptionalities are the other one that come up most often.

DISCLOSURE OF INFORMATION

Employer has to provide the JHSC the results of a report respecting H&S. May have to provide this to workers as well. JHSC can request certain information as well. Have been some legal decisions regarding what types of reports this applies to. Arbitrator found that boards have to provide information on specific individuals and their 'safety' plans to JHSC. Can withhold identifying personal information. Adjudicators tend to err on the side of caution and creating extra requirements to promote H&S.

OCCUPATIONAL ILLNESS REPORTING

It's hard to know where a worker contracted COVID19. Ministry of Labour seems to be taking the position that you have an obligation to report if there's a reasonable expectation that work was the location of the illness.

ONGOING PANDEMIC RELATED ISSUES

Vaccinations – many boards had some sort of vax policy and now with vax passport retracted it may not now withstand scrutiny. Masking – has become political. Question of enforcement for required masking post-isolation period

Re-imagining Recruitment, Staffing and Retention through an Anti-Racist Anti-Oppressive Lens

Letty Goddard HWDSB

Chavon Niles HWDSB

In Hamilton, shifting immigration patterns – County of origin Syria, Iraq, Philippines and India and they tend to settle in certain areas. Have data for Hamilton leadership positions and see underrepresentation of racialized people.

Audit reviewed policy, procedure, and practice, one-on-one interviews, focus groups, surveys.

Recommendations

- Targeted outreach
- Ensure no conflict of interest in hiring
- Support advancement of current racialized staff
- Work with other boards to develop greater diversity in overall work force

Create a more inclusive and respectful workplace.

Think about your job postings and interview questions and review them from an equity lens. Training for all leaders in bias-free hiring and conflict of interest. Think of assets outside of the norm – Arabic speaking, experience working with newcomers, and change these depending on the community for which you are hiring.

Co-creating a culture of belonging has many benefits for everyone – improved creativity, superior hiring results, broadened perspectives, improved cultural rights, increased productivity, reduced employee turnover, better funding opportunities etc.

Recruitment and Retention Lens –

- Before the search – what is the purpose of the search, where are we posting the jobs and not posting
- Screening and assessing – what are the qualifications vs the assets. Look-fors don't force people to fit in a specific box.
- Offering the job – that's not the end. Outcome vs impact. Outcome is number, impact is sustainability. How do we ensure our employees are successful? PD, mentoring, building capacity, work-life balance.

Have to be ambitious and creative.

Co-creating strategy – consultation with community, surveys. To get ideas e.g. where to recruit

HWDSB would be open to speaking with other boards interested in this work.

Racial Discrimination in the Workplace: Prevention, Identification, and Response

Sean Reginio & Njeri Damali Sojourner-Campbell – Hicks Morley

Why this presentation and why now? Racial discrimination is not new but in this particular historical moment, due to various elements like COVID 19, ministerial reviews faced by boards in the province, community advocacy, reprisal concerns, directives from Ministry, it is timely.

General Legal Obligations – Ontario Human Rights Code, Occupational Health & Safety Act (includes psychological h&s and racial discrimination creates negative psych effects), Workplace Safety and Insurance Act, 1997. Failure to comply can create liability in various contexts.

Key legal principles:

- Even if racial discrimination is a small part of a decision, it can still create legal liability. If only part of the decision-making was racially based it could trigger liability
- No need to prove intention or motivation. Many are unintentional and well-meaning but that doesn't mean you avoid legal liability.
- No need for direct evidence. HR tribunal and H&S tribunals agree it's hard to find direct evidence for racial discrimination so circumstantial evidence can be sufficient.
- Tribunals etc. will also recognize that subtle beliefs, biases and prejudices lead to racial discrimination and create legal liability.

Practical requirements – do what is reasonable, take appropriate steps to prevent racial discrimination, respond appropriately to incidents of racial discrimination. This includes taking steps to identify incidents. One key mistake people make is assuming something isn't racial discrimination when it could be.

The many forms of racial discrimination – Leaders may not be paying attention to how discrimination is being expressed and they mischaracterize it. Commonly, you may focus on the interpersonal issue not the racial aspect.

Limited views – racial slurs, explicit identification of an individual's race, insults or harassment with specific reference to race. These types of overt racism are happening more frequently now.

Additional views – indirect or systemic discrimination, implicit bias and microaggressions, reprisal (e.g. some people can bring up issues and others who do it are seen as disruptive, playing the 'race card').

Calling something 'subtle' discrimination usually is not subtle to the person experiencing it. Reprisal does have an intent aspect, e.g. 'we're talking about race again when this is really just an interpersonal issue'. There are some useful tools online to help us determine our unconscious bias. Once you are aware that you have a bias, it is harder to deny that you have it. Willful ignorance is different. If you know about it you have to do the work to unlearn it. Microaggressions, perpetrators are often unaware of what they're doing – You're so articulate!

When you break down why the comment/action is made. Why do clutch your purse as the black man walks by? Why assume the Asian guy works in accounting?

Intersectionality – compounding impact of discrimination based on multiple elements of a person's identity. It helps us to be thorough when thinking about discrimination. Create a more nuanced approach and help determine how people will experience a policy etc. differently.

Best Practices – Training/Policies/Diligence

Training – training yourselves, training your staff, providing resources, open lines of communication, meaningful engagement with challenging issues. Don't avoid talking about these issues.

Policies – Reflect the principles of DEI in all of your organization's policy documents, reasonable policies that thoroughly describe expectations of all staff, taking steps to ensure that all staff are aware of and understand their role, consistent application of policies to all relevant circumstances. Talk the talk and walk the walk!

Diligence – identify, respond appropriately, conduct a thorough and reliable investigation, engage in all necessary follow-up, including communication with parties, training, policy revision. Even if you find no racial discrimination, you have to go through the process or could still have legal liability.

Question – How much of this is transferable to the context of dealing with students/families? A. most of it. E.g. this often comes up in discipline hearings.