



**ONTARIO LABOUR RELATIONS BOARD**  
**APPLICATION UNDER SECTION 96 OF THE ACT**  
**(UNFAIR LABOUR PRACTICE)**  
*Labour Relations Act, 1995*

**Form A-33**

Fields marked with an asterisk (\*) are mandatory.

<p><b>Between: *</b>          Elementary Teachers' Federation of Ontario</p>          <p align="center">- and -</p> <p>His Majesty the King in Right of Ontario as represented by the Minister of Education</p>	<p><b>Applicant(s)</b></p>          <p><b>Responding Party(ies)</b></p>
---	---

- Review the Filing Guide and the Board's Rules of Procedure on acceptable methods of delivery and filing **before** completing this form to avoid any delay in processing.
- All forms, Notices, Information Bulletins, the Filing Guide and the Rules of Procedure may be obtained from the Board's website (<http://www.olrb.gov.on.ca>).
- To print a paper copy of this form, use **only** the "Print" buttons located within the form.
- Save a copy of your completed form and any attachments as the Board will not return them to you. To save the form at any time, use the "Save" buttons located within the form.
- If there is insufficient space on the form, attach additional pages clearly identifying the relevant section of the form. For e-filing, you may attach files by selecting the "Attach documents electronically" option.

**Part A Contact Information**

**Instructions**

- Provide the contact information for each Applicant, Responding Party and Affected Party below. If you wish to add additional parties, use the "Add" button or attach a separate page if completing the form by hand.
- If a party is an organization, provide the name and contact information of an individual who will be able to respond on behalf of that organization. When adding multiple individuals at the same organization, "Add" an additional contact section, repeat the organization name and provide that individual's contact information (e.g. name, email address, phone number).

**1 (a). Applicant****Applicant 1**Type \*  Organization  Individual

Organization Name \*

Elementary Teachers' Federation of Ontario

First Name

Sharon

Last Name

O'Halloran

Position/Title

General Secretary

Full Address (Number, Street, Unit/Apartment, Building Name)

136 Isabella Street

Other Address Details (e.g. PO Box, R.R. #, c/o)

City/Town

Toronto

Province/State

ON

Country

Canada

Postal/Zip Code

M4Y 0B5

Telephone Number

416 962-3836

Ext.

Fax Number

Email Address

sohalloran@etfo.org

Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

Karen Brown - ETFO President, kbrown@etfo.org, 416-962-3836

**1 (b). Representative/Contact Person for the Applicant****Contact 1**Contact Person for \*  All Parties above  Party No. (s) \_\_\_\_\_Indicate if this person is a  Lawyer  Paralegal

Organization Name

Goldblatt Partners LLP

First Name

Howard

Last Name \*

Goldblatt

Position/Title

Counsel

Full Address (Number, Street, Unit/Apartment, Building Name)

1039-20 Dundas Street West

Other Address Details (e.g. PO Box, R.R. #, c/o)

City/Town

Toronto

Province/State

ON

Country

Canada

Postal/Zip Code

M5G2C2

Telephone Number

416 930-1143

Ext.

Fax Number

416 591-7333

Email Address

hgoldblatt@goldblattpartners.com

Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

Assistant: Amber Khan, akhan@goldblattpartners.com 416-979-4383; Co-Counsel: Dan Sheppard, dsheppard@goldblattpartners.com 416-979-6442 - Assistant: Helen Falbo hfalbo@goldblattpartners.com; Co-Counsel: Sabrina Sukhdeo, ssukhdeo@goldblattpartners.com 647-324-8069.

**2 (a). Responding Party****Responding Party 1**Type \*  Organization  Individual

Organization Name \*

His Majesty the King in Right of Ontario as represented by the Minister of Education

First Name

Amyn

Last Name

Hadibhai

Position/Title

Legal Director

Full Address (Number, Street, Unit/Apartment, Building Name)

College Park 6th Flr Suite 602A, 777 Bay Street

Other Address Details (e.g. PO Box, R.R. #, c/o)

City/Town

Toronto

Province/State

ON

Country

Canada

Postal/Zip Code

M7A2J3

Telephone Number 416 605-2038	Ext.	Fax Number	Email Address amyn.hadibhai@ontario.ca
----------------------------------	------	------------	---

Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)  
cloc.reception@ontario.ca

**2 (b). Representative/Contact Person for the Responding Party, if known**

**3 (a). Affected Party**

Contact information for any person, trade union, employer or employer's organization which may be affected by the application must be provided below.

**Affected Party 1**

Type \*  Organization  Individual

Organization Name \*  
Ontario Public School Boards' Association

First Name Cathy	Last Name Abraham	Position/Title President
---------------------	----------------------	-----------------------------

Full Address (Number, Street, Unit/Apartment, Building Name) 1850-439 University Avenue	Other Address Details (e.g. PO Box, R.R. #, c/o)
--	--

City/Town Toronto	Province/State ON	Country Canada	Postal/Zip Code M5G 1Y8
----------------------	----------------------	-------------------	----------------------------

Telephone Number 416 340-2540	Ext.	Fax Number	Email Address President@opsba.org
----------------------------------	------	------------	--------------------------------------

Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)  
Janet Edwards, Associate Director of Labour Relations, OPSBA - JEdwards@opsba.org, 416-340-2540

**3 (b). Representative/Contact Person for the Affected Party, if known**

**3 (c). The person, trade union, employer or employers' organization named above is affected by the application for the following reason(s):**

OPSBA is a part to central bargaining under the SBCBA and represents school boards that are required to implement PPM168.

**Part B Material Facts and Relief Sought**

**4. The Applicant states that the Responding Party has violated section(s) \* 86 (LRA), ss 4, 29, 32 and 36 (SBCBA) of the *Labour Relations Act, 1995* (You must claim that some section other than section 96 has been violated.)**

**5. The Applicant requests the following relief:**

Describe in detail what you wish the Board to order as a result of this application. If you require more space, attach a separate document.

Please see Schedule 'A'

---

**6. In support of its request, the Applicant relies on the following material facts:**

Include all of the material facts on which you rely including the circumstances, what happened, where and when it happened, and the names of any persons said to have acted improperly. You will not be allowed to present evidence or make any representations about any material fact that was not set out in the application and filed promptly in the manner required by the Board's Rules of Procedure, except with the permission of the Board. If you require more space, attach a separate document.

Please see Schedule "B"

---

**7. Other relevant statements:**

ETFO is asking for an abridgment of the time for filing replies or intervention material and an expedited hearing on the merits of the application.

---

**8. Attached documents:**

Provide a list of the documents you are filing together with this form as instructed below.

Name your documents/attachments so that they are easily identifiable.

If you are e-filing this form, select the "Attach documents electronically" option below and attach each document using the "Add File" button.

If you are filing in a manner other than e-filing, provide the numbered list of documents in the box below.

---

**Documents**

Please see attached Schedules "A" and "B" and supporting documents

---

## IMPORTANT NOTES

The Board's forms, Notices, Information Bulletins, Rules of Procedure and Filing Guide may be obtained from its website <http://www.olrb.gov.on.ca> or by calling 416-326-7500 or toll-free at 1-877-339-3335.

### FRENCH OR ENGLISH

Vous avez le droit de communiquer et recevoir des services en français et en anglais. La Commission n'offre pas de services d'interprétation dans les langues autres que le français et l'anglais.

You have the right to communicate and receive services in either English or French. The Board does not provide translation services in languages other than English or French.

### CHANGE OF CONTACT INFORMATION

Notify the Board immediately of any change in your contact information. If you fail to do so, correspondence sent to your last known address (including email) may be deemed to be reasonable notice to you and the case may proceed in your absence.

### ACCESSIBILITY AND ACCOMMODATION

The Board is committed to providing an inclusive and accessible environment in which all members of the public have equitable access to our services. We will aim to meet our obligations under the *Accessibility for Ontarians with Disabilities Act* in a timely manner. Please advise the Board if you require any accommodation to meet your individual needs. The Board's Accessibility Policy can be found on its website.

### COLLECTION AND DISCLOSURE OF INFORMATION AND DOCUMENTS

Any relevant information that you provide to the Board must in the normal course be provided to the other parties to the proceeding. Personal information collected on this form and in written or oral submissions may be used and disclosed for the proper administration of the Board's governing legislation and case processing. In addition, the *Tribunal Adjudicative Records Act, 2019* requires that the Board make adjudicative records (which include applications filed and a listing of such applications) available to the public. The Board has the power to make part or all of an adjudicative record confidential. The *Freedom of Information and Protection of Privacy Act* may also address the treatment of personal information. More information is available on the Board's website [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca). If you have any questions concerning the collection of information or disclosure of adjudicative records, contact the Solicitors' Office at the number listed above or in writing to the OLRB, 505 University Ave., 2nd floor, Toronto, ON M5G 2P1.

### E-FILING AND E-MAIL

The Rules of Procedure and Filing Guide set out the permitted methods of filing. **In the event of emergencies or other circumstances, the Board may post a Notice to Community on its website, which will prevail over the Rules of Procedure and Filing Guide. You should check the Board's website prior to filing.** Note that the e-filing system is not encrypted. Contact the Client Services Coordinator at the numbers listed above if you have questions regarding e-filing or other filing methods. If you provide an e-mail address with your contact information, the Board will in most cases communicate with you by e-mail from an out-going only generic account. Incoming emails are not permitted.

### HEARINGS AND DECISIONS

Hearings are open to the public unless the Board decides that matters involving public security may be disclosed or if it believes that disclosure of financial or personal matters would be damaging to any of the parties. Hearings are not recorded and no transcripts are produced.

The Board issues written decisions, which may include the name and personal information about persons appearing before it. Decisions are available to the public from a variety of sources including the Ontario Workplace Tribunals Library and [www.canlii.org](http://www.canlii.org). Some summaries and decisions may be found on the Board's website.

## Documents to be Delivered

Before you file your application with the Board, you must deliver the following documents to each Responding Party and Affected Party named in Part A of this application:

- A completed copy of this Application under Section 96 of the Act (Form A-33), **including all documents you are filing with this form; and**
- A Notice to Responding Party and/or Affected Party of Application under Section 96 of the Act (Form C-12) **with the names of the parties and the date inserted.**

**Note to each Responding Party and Affected Party:** The documents listed above should have been delivered to you by the Applicant. The applicable response/intervention form is **Form A-34**.

**Once the above-listed documents have been delivered to the other parties, you must complete the following Certificate of Delivery before filing the completed form and attachments with the Board.**

I have reviewed this form to confirm it is complete \*

Date (yyyy/mm/dd) \*  
2023/08/08

TAB A

## Schedule A

The Applicant, the Elementary Teachers' Federation of Ontario ("ETFO"), requests the following relief:

1. An order abridging the time limits for the filing of reply or intervenor documents and expediting the herein proceedings;
2. A declaration that the Responding Party, His Majesty the King in Right of Ontario as represented by the Minister of Education (the "Crown"), has violated the *Labour Relations Act, 1995* ("LRA") and the *School Boards Collective Bargaining Act, 2014* ("SBCBA") as set out in Schedule B of this Application and appropriate directions in respect of such declarations;
3. An order requiring the Crown to withdraw forthwith *Program/Policy Memorandum 168 – Reading Instruction and Early Reading Screening* ("PPM168");
4. In the alternative to paragraph 3, a declaration that, to the extent that PPM168 imposes new, additional or different obligations on ETFO's members respecting early reading screening, directly or indirectly, or in any other way contravenes or interferes with the rights of ETFO members, the members are not required to comply with those obligations;
5. Damages to ETFO and its members for violations of the *LRA* and *SBCBA*; and
6. Such other and further relief as counsel may advise and the Board may deem just.



# TAB B

## Schedule B

### Overview

1. This is an application under s. 96 of the *LRA* and s. 44 of the *SBCBA* alleging that the Responding Party, His Majesty the King in Right of Ontario as Represented by the Minister of Education (the "Crown"), has violated s. 86 of the *LRA* and ss. 4, 29, 32 and 36 of the *SBCBA*.
2. The complaint arises from the Crown's unilateral decision to promulgate *Program/Policy Memorandum 168 – Reading Instruction and Early Reading Screening* (PPM168), which imposes new rules, duties and obligations on School Boards and ETFO's members related to the exercise of their professional judgement and, more specifically, the requirement for early reading screening. These improper Crown actions occurred during the course of central bargaining under the *SBCBA* while a statutory freeze on the terms and conditions of employment and the rights, privileges and duties of ETFO members was in effect and when early reading screening was a subject of central bargaining.
3. During the course of central bargaining, the Crown repeatedly indicated to ETFO that, while it was interested in making changes to how early reading screening took place in Ontario's elementary schools, it was committed to dialogue with ETFO and would not take unilateral action unless the process of dialogue failed. Yet, despite the fact that bargaining is ongoing, and nothing approaching an impasse on the issue of early reading screening has occurred, the Crown broke its promise and unilaterally acted by promulgating PPM168.

4. The effect of PPM168 is to impose new obligations on ETFO's members that conflict with the central provisions of the most recent collective agreement which expired on August 31, 2022, and which are currently maintained pursuant to a statutory freeze. The inevitable consequence of PPM168 is a substantive alteration of the terms and conditions of employment and duties and obligations imposed on the members that ETFO represents.
5. The only remedy for this bad faith bargaining by the Crown and flagrant disregard for the central freeze is to grant the remedies requested in Schedule A of this complaint.

#### **The Parties**

6. ETFO is the statutory bargaining agent for all elementary teachers employed in the English-language public school system in Ontario. It represents approximately 83,000 elementary school teachers that work in English-language District School Boards and School Authorities in Ontario. ETFO is also the statutory bargaining agent for a number of bargaining units of education workers.
7. ETFO's members are currently responsible for using diagnostic assessments to identify students' needs and abilities and to assess students' readiness to acquire the knowledge and skills outlined in Ontario's curriculum expectations. They do this through the exercise of their professional judgment in the selection of the appropriate assessment tools and the frequency and timing of their use.
8. The Responding Party is the Crown. It has various statutory and regulatory powers pursuant to the *Education Act (EA)*. These powers permit it to issue binding

directives and generally exercise supervisory control over School Boards and other employers in public education. These powers can be exercised through the passage of Program/Policy Memoranda (PPMs). PPMs can have significant impacts on the terms and conditions of employment of teachers and other workers in the education sector.

9. The *SBCBA* sets out the structure of collective bargaining in Ontario's education sector. It establishes a two-tier process for collective bargaining: a province-wide central table to bargain province-wide terms and conditions of employment; and local tables for additional terms and conditions of employment to be negotiated at the school board level.

10. The Crown is a mandatory participant in central table bargaining. It is under a statutory duty to bargain in good faith at the central table.

### **Background on Diagnostic Assessment in Ontario Schools**

11. Diagnostic assessment tools help teachers determine where individual students are in their acquisition of knowledge and skills so that instruction can be personalized and tailored to the appropriate next steps for learning. These tools exist across a range of subject and grade levels and may be more or less appropriate depending on the particular circumstances of each student. Their appropriate application relies on the exercise of professional judgment by teachers.

12. Historically, teachers in Ontario have been largely left to determine for themselves which tools to use and when to use them. Teachers exercised professional judgment in making these decisions.

13. Starting approximately 20 years ago, the Crown's Literacy and Numeracy Secretariat began to provide support to teachers and principals in the implementation of a common set of diagnostic assessment tools. However, what began as a process of providing support to help teachers assess student learning needs transformed into a means by which School Boards assessed teacher performance.
14. In 2005, the Crown provided funding to School Boards to create data management systems to collect information obtained through the use of diagnostic assessment tools. At the same time, School Boards required teachers to administer specific tools and enter the results into these data management systems. The consequence was that significant instructional time was lost due to the amount of time it took teachers to administer these assessment tools and then input data in the School Boards' systems.
15. School Boards also misused this data to assess teacher performance. This created stress for teachers, who felt that they were being subjected to unfair scrutiny, based on data that was not designed to assess teacher performance in the first place.
16. The stress and workload issues associated with this mandatory system of diagnostic assessment and centralized data collection came to a head in 2013. In order to address these problems, education-sector unions, School Boards and the Crown engaged in a collaborative process that ultimately resulted in the Crown promulgating *Policy/Program Memorandum 155 – Diagnostic assessment in support of student learning* (PPM 155) on January 7, 2013 [Tab 1].

## PPM 155

17. PPM 155 applies to the use of diagnostic assessments. The definition of “diagnostic assessments” in PPM 155 is adopted from the Ministry of Education’s *Growing Success: Assessment, Evaluation, and Reporting in Ontario Schools*, 1<sup>st</sup> Edition, Covering Grades 1 to 12 (*Growing Success*) [Tab 2]. Diagnostic assessment is defined as:

assessment that is used to identify a student’s needs and abilities and the student’s readiness to acquire the knowledge and skills outlined in the curriculum expectations. Diagnostic assessment usually takes place at the start of a school year, term, semester, or teaching unit. It is a key tool used by teachers in planning instruction and setting appropriate learning goals. [Tab 1, p. 4]

18. PPM 155 excludes two types of assessments: special education assessments (*i.e.*, tools used to identify students with special education needs or to determine the special education programs or services that they require) and large-scale assessments (*i.e.*, provincial assessments conducted by the Education Quality and Accountability Office, or national or international-level assessments approved by the Ministry of Education). All other diagnostic assessments are subject to PPM 155.

19. PPM 155 both imposes obligations and protects the professional judgment of teachers with respect to the selection and use of diagnostic assessment tools:

Teachers will use their professional judgement, as defined in *Growing Success*, when selecting and using diagnostic assessment tools. Teachers must utilize diagnostic assessment during the school year, selecting tools from the board’s approved list. In selecting and using diagnostic assessment tools from the board’s list, teachers shall determine the following:

- the diagnostic assessment tools that are applicable

- which student(s) will be assessed (individual student, small group, or whole class)
- the frequency of use of the diagnostic assessment tools
- the appropriate timing of the use of the diagnostic assessment tools [Tab 1, p. 7]

20. Under PPM 155, School Boards are required to establish and provide a list of approved diagnostic assessment tools. However, the selection of specific tools to use, the identification of the students to be assessed and the timing of the use of these tools, is a matter for each teacher's professional judgment. PPM 155 recognized that teachers, with their unique knowledge of their students, were best positioned to determine how diagnostic assessment might best be implemented in order to promote student education, growth and development.

21. PPM 155 also responded to concerns that the pre-2013 practice of data collection by School Boards had turned into a means of inappropriate teacher evaluation. It provides that School Boards will consult with both teachers and principals in order to collaborate to develop a common understanding of the planning process and the need for student data and information that can inform actions taken to improve student learning.

22. PPM 155 applies to literacy screening. Literacy screening is a type of diagnostic assessment that falls within the scope of teachers' professional judgment. The "approved list" of tools that School Boards prepare pursuant to PPM 155 include literacy screening tools.

## **Central Agreement Language Regarding Assessment Tools**

23. In the 2014 round of collective bargaining, ETFO negotiated what is now Article C9.00 of the collective agreement,<sup>1</sup> a central term applicable to all English-language public elementary school boards in Ontario [Tab 3]. Article C9.00 provides as follows:

### **C9.00 DIAGNOSTIC ASSESSMENT**

- a) For the purposes of C9.00, the term “Teachers” shall include Occasional Teachers.
- b) Teachers shall use their professional judgement as defined in C2.5 above. The Parties agree that a Teacher’s professional judgement is the cornerstone of assessment and evaluation.
- c) Teachers’ professional judgement is further informed by using diagnostic assessment to identify a student’s needs and abilities and the student’s readiness to acquire the knowledge and skills outlined in the curriculum expectations. Information from diagnostic assessments helps Teachers determine where individual students are in their acquisition of knowledge and skills so that instruction is personalized and tailored to the appropriate next steps for learning. The ability to choose the appropriate assessment tool(s), as well as the frequency and timing of their administration allows the Teacher to gather data that is relevant, sufficient and valid in order to make judgements on student learning during the learning cycle.
  - i. Boards shall provide a list of pre-approved assessment tools consistent with their Board improvement plan for student achievement and the Ministry PPM.
  - ii. Teachers shall use their professional judgment to determine which assessment and/or evaluation tool(s) from the Board list of preapproved assessment tools is applicable, for which student(s), as well as the frequency and timing of the tool. In order to inform their instruction,

---

<sup>1</sup> The numbering of this provision has changed over time. For simplicity, the Applicants use C9.00 throughout this pleading to refer to the relevant collective agreement provision as it existed from time to time.



Teachers must utilize diagnostic assessment during the school year.

- d) The results of diagnostic assessments shall not be used in any way in evaluating Teachers. No Teacher shall suffer discipline or discharge as a consequence of any diagnostic assessment results.

24. Article C9.00 is significant for ETFO members for at least two reasons: First, it incorporates the substance of PPM 155 into the central language of the collective agreement; and secondly, it provides that any data collection resulting from diagnostic assessment cannot be used to evaluate teacher performance, or as a basis for discharge and discipline.

25. Taken together, PPM 155 and Article C9.00 were key components of the solution to the problems that existed between 2004 and 2013 regarding diagnostic assessment of students while at the same time ensuring that appropriate diagnostic assessment tools were used to advance the interests of the students in the public elementary system.

26. Article C9.00 is an operative part of the most recently expired collective agreement and governed the terms and conditions of ETFO members' employment and well as their rights and duties with respect to diagnostic assessment. Its provisions are currently crystalized pursuant to the statutory freeze provisions of both the *LRA* and the *SBCBA*.

### **The *Right to Read* Report**

27. On October 3, 2019, the Ontario Human Rights Commission ("OHRC") announced that it would exercise its powers under s. 31 of the *Human Rights Code* to

investigate whether students with reading disabilities had meaningful access to education as required under the *Code* and under various international treaties.

28. The results of the OHRC's inquiry were published in a report entitled *Right to Read: Public Inquiry into Human Rights Issues Affecting Students with Reading Disabilities* ("*Right to Read*") [Tab 4].<sup>2</sup> This report was published on February 28, 2022.

29. *Right to Read* is a 558-page report that addresses a wide range of topics and makes numerous recommendations. One of the topics discussed in the report is the use of screening measures to assess reading ability. The report described screening measures as follows:

A screening measure is a quick and informal evidence-based test that provides information about possible reading difficulties. It identifies students who are at risk for or currently experiencing reading difficulties so they can receive more instruction or immediate intervention. Although beyond the scope of this report, early measures can be used to screen for difficulties in oral language development.

Screening is not a diagnosis. It does not identify children for a special education designation or label. It is an early detection strategy for the benefit of students and teachers. Teachers better understand how to help their students, and students receive immediate and targeted support. [Tab 4, p. 233]

30. Defined in these terms, screening measures constitute a form of diagnostic assessment tool, which are subject to both PPM 155 and Article C9.00.

31. *Right to Read* itself recognizes that screening measures are a type of diagnostic assessment tool. The report identified that PPM 155 and its guarantee that the selection of diagnostic screening tools is a matter of a teacher's professional

---

<sup>2</sup> The *Right to Read Report* is 558 pages long. The Applicants have only reproduced Chapter 9 (Early Screening) at this tab. The full report can be accessed online: <https://www.ohrc.on.ca/en/right-to-read-inquiry-report>

judgment, is an “obstacle to universal screening”, in the sense of a centralized system of screening applied to all students regardless of individual circumstance.

32. However, *Right to Read* also stated that the OHRC’s position is that screening tools “are more like a special education assessment than a diagnostic assessment” [Tab 4, p. 251]. This is not correct.

33. *Right to Read* also recognized that PPM 155 was a response to problems with rolling out centralized assessment tools in 2005, the perception that the data collection associated with these tools was effectively a mechanism for monitoring teacher performance, and the loss of instructional time that resulted from the mass application of these tools [Tab 4, p. 247].

34. Ultimately, the *Right to Read* report made 9 recommendations on the topic of early screening. These included:

- a. Stable ministry funding for evidence-based screening of all students in Kindergarten Year 1 to Grade 2 in word reading accuracy and fluency;
- b. Mandate school boards to screen all students twice per year (beginning and mid-year from Kindergarten Year 1 to Grade 2) using standardized tools;
- c. Make various revisions to PPM 155;
- d. Implement data collection on screening tools for various purposes, which do not include performance management of teachers; and
- e. Ensure that teachers have adequate time to complete screening assessments and related data entry, and provide them with

comprehensive professional learning on the standardized tools to be used.

[Tab 4, pp. 268-270]

### **The 2022 Round of Bargaining**

35. ETFO served the Crown and the Ontario Public School Boards' Association (OPSBA) with notice to bargain a new collective agreement for teacher and occasional teacher bargaining units on June 13, 2022 [Tab 5].
36. On January 16, 2023, following litigation at the Board, ETFO, the Crown and OPSBA agreed to a list of topics for bargaining at the central table [Tab 6]. The list included "Diagnostic assessment" under the general heading of "Workload/Working Conditions/Access to Work".
37. The issue of diagnostic assessment tools and the impact of the recommendations from the *Right to Read* report have been topics of discussion at central bargaining throughout the entire bargaining process. While no agreement had been reached by the time the Crown promulgated PPM 168, neither was there any impasse. The parties were continuing to bargain on this issue.
38. The parties to central bargaining first exchanged proposals with respect to the central terms for a teacher/occasional teacher agreement on November 22, 2022. On that first day of bargaining central issues, there were discussions between ETFO and the Crown regarding diagnostic assessment [Tab 7 – **ETFO Central Table Notes, 2022-11-22**].
39. During this meeting, the Crown and OPSBA jointly provided a list of proposals to ETFO [Tab 8]. Under the heading "Workload/Working Conditions/Access to Work"

the first item listed as a bargaining proposal was “Based on OHRC Right to Read Report, discuss updates to standardized screening”.

40. ETFO did not fully understand this entry, since it was not in the form of a specific proposal. Lisa Mastrobuono, ETFO’s Deputy General Secretary, asked Matt Beattie, the spokesperson for the Crown, to explain the Crown’s reference to standardized screening:

[Mastrobuono]: ... Updated to standardized screening. What do you mean by that. What would be updated?

[Beattie]: Announcement last month Screening using evidence based tools in kindergarten. How do we make that a reality. [Tab 7, p. 4]

41. Mr. Beattie was referring to an October 20, 2022 government press release [Tab 9] that, amongst other things, stated:

Minister Lecce also announced next steps for Ontario’s *Plan to Catch Up*, that responded to EQAO assessment results and prepare students for future success. New supports include: ...

**Early reading enhancements** that further our response to the Ontario Human Rights Commission’s (OHRC) *Right to Read Report*, which includes a \$25 million investment in evidence-based reading intervention programs and professional assessments, and helps educators reach young students sooner. Beginning in the 2023-2024 school year, students in year 2 of Kindergarten to Grade 2 will be screened for reading using evidence-based tools. The government will also work with school boards and labour partners this school year to establish a consistent set of recommended screening tools.

42. The reference to “*Plan to Catch Up*” is to a paper published by the Crown addressing education initiatives following disruptions to the 2020/21 and 2021/22 school years caused by the COVID-19 pandemic [Tab 10].

43. The *Plan to Catch Up* addresses the *Right to Read* Report mainly in terms of financial commitments the Crown had made related to literacy. The *Plan to Catch Up* made only a vague reference to diagnostic assessment tools related to reading:

... we will continue to monitor emerging student achievement trends, including through student assessments and progress reports, and direct further efforts across the province and to areas of need to get every student back on track. [Tab 10, p. 9].

44. In light of the relatively vague comments made by the Crown related to screening tools, ETFO returned to this topic later in bargaining on November 22, 2022, seeking further information about what the Crown was proposing:

[Mastrobuono]: Question about the screener. Updates to standardized screening. This morning, we presented some fairly detailed proposals. This term sheet is quite broad and not so detailed, so we want to ask a few questions. What is your proposal on standard screening? Has the government selected a screener? I assume it will be used Y2-Grade2, based on your response. We'd like a copy, and also who administers the screener. We'd appreciate a proposal so that we know what is to be discussed.

[Beattie]: A response to that, I made reference to the announcements made by the Ministry just a month ago. The government intends to work with its partners to develop a list of tools to be used in schools. We haven't developed anything yet and want to have a conversation about it.

[Mastrobuono]: It's a collective agreement discussion?

[Beattie]: That's the question. I don't know personally if that's the best way to do that. But there is a conversation to be had about what's in the collective agreement to ensure that what's in the report

[Mastrobuono]: Compliant with the CA that's why the conversation is here?

[Beattie]: More just to ensure the objective in the report is met.

[Mastrobuono]: As I asked the question I realised you wouldn't be answering no to that question. Just need further clarity.

[Sharon O'Halloran – ETFO General Secretary]: The ministry committed to consultation and policy changes and that the conversation will happen at this table.

[Beatie]: Yes. A conversation.

[Andrew Davis, Assistant Deputy Minister]: There is a ... at the ministry program experts can come here rather than through the bargaining team. That is an element to arrange. There are pieces in the central agreement that are fairly explicit in regards to professional judgement and screening. I would go as far as saying that some of those pieces are... human rights identified in the report. That will need to be part of the conversation so that we can fulfill those requirements. [Tab 7, pp. 9-10]

45. ETFO understood these comments and the accompanying Crown-OPSBA proposal to mean, amongst other things:

- a. The Crown was interested in having a discussion with ETFO, in the context of central bargaining, about implementing the recommendations of the *Right to Read* report related to screening;
- b. The Crown recognized that the central agreement language was relevant to the Crown's ability to respond to the *Right to Read* recommendations;
- c. That the discussions surrounding this issue fell within the scope of the item "Workload/Working Conditions/Access to Work" contained on the central items for bargaining list; and
- d. The Crown was committed to discussing policy and that the conversation would occur at the central table as part of bargaining for the 2022 collective agreement.

46. On February 28, 2023, Yael Ginsler, the Assistant Deputy Minister of Education for Student Achievement at the Ontario Ministry of Education, attended bargaining to provide a special presentation on screening [Tab 11 – ETFO Central Table Notes, 2023-02-28; Tab 12 – Update on Early Reading Screening Presentation].

47. Following a break in bargaining, ETFO provided a response to ADM Ginsler's presentation, which led to a further exchange of comments between ETFO and the Crown:

[Mastrobuono]: We had a lot of discussion after the presentation. Thank you for the presentation. We just want to say a few things. (Lisa reads statement).

Statement read and copied to these notes:

- ETFO has a public and demonstrated commitment to student learning and well-being. Over and over again, studies have demonstrated a significant link between teacher leadership and professionalism, and student learning. We believe that the professional judgement language, including the diagnostic assessment language, in the central agreement encourages a culture of collaborative professionalism in schools by giving teachers and occasional teachers a real voice and agency to use evidence of student learning to inform instruction.
- We want to remind the parties at the table that the teacher professional judgement and diagnostic assessment language in the central agreement was mutually agreed to and negotiated by all the parties during the 2014 round of bargaining. That mutual agreement was, in part, based on the Teacher Workload and Professionalism Study published in August 2014, by Directions Evidence and Policy Research on behalf of the Ministry of Education. We have a copy of the report that we can provide to you.
- We also want to refer the parties to a study conducted in 2018 called Ontario: A Learning Province, written by Carol Campbell, Jean Clinton, Michael Fullan, Carl James and Diane Longboat, who wrote this report as an independent review of assessment and reporting, as education advisors to the Premier of Ontario and the Minister of



Education at the time. There are a number of conclusions in the report, but the main thrust of the report is that classroom based assessment is the most impactful in improving student achievement. We believe that assessment policy must focus on the central role of the teacher and teacher professional judgement, and adequate funding needs to be provided to support this work.

- As you know, a new PPM such as the one you are proposing today, cannot override collective agreement language. It is our position that the ministry cannot proceed without agreement at this table to a revision of the existing language.

[Beatie]: Can I respond to last statement? In my opening remarks I stated we were committed to working with partners. I believe we have showed commitment to collaboration. We put our proposal on the table. We are here to seek collaborative change to that language.

[Mastrobuono]: I think that was clear in what was being sought. Thank you for the clarification. Hopefully our comments also provided clarification.

[Trevor Lawson, External Crown Legal Consultant]: While we are here to seek a negotiated settlement the government will reserve all of its rights if we should not be able to get that negotiated conclusion.

[Mastrobuono]: So if it can't be reached? Which is what we do at this table, what does it mean? Trying to understand what that means.

[Lawson]: The government will reserve all of its rights if we should not get to a negotiated conclusion. The goal of the government is to get to a collaborative solution.

[Mastrobuono]: What those rights are?

[Lawson]: Right to implement policy, legislate, and regulate.

[Mastrobuono]: We want a collaborative negotiated settlement but if not then will do this?

[Davis]: That is not what was said.

[Lawson]: Not intended to sound that way. The goal to introduce language is to have a discussion to get to a negotiated resolution. If we don't do that, then will reserve all of its rights that the government has on this issue. [Tab 11, pp. 4-6]

48. As the above exchange illustrates, ETFO was concerned that the Crown was threatening to unilaterally legislate its own preferred rules respecting literacy screening. However, the Crown explicitly stated that this was not the case. While it claimed to "reserve its rights", it also clearly stated that its goal was to introduce language on the issue at the bargaining table and to have a discussion in order to "get to a negotiated resolution", and that the rights that it was reserving was in the event that "we don't do that". At a minimum, there was no suggestion that the Crown would act unilaterally unless and until it had determined that the parties had reached an impasse at the bargaining table. Moreover, the Crown never suggested that it would take any action which was contrary to its statutory obligations under both the *LRA* and the *SBCBA*.

49. This understanding was reinforced in a discussion that occurred later that day between a smaller group of senior representatives of the parties [Tab 13 – ETFO Small Group Conversation Notes, 2023-02-28].

50. Sharon O'Halloran, ETFO's General Secretary, expressed her serious concern about the Crown's comments made at the bargaining table, indicating that ETFO's view that it was "not acceptable" and "constitutes bad faith bargaining". She stated that ETFO did not "want to be at the OLRB again re: regulations and bad faith bargaining charge" [Tab 13, p. 1].

51. Andrew Davis, Assistant Deputy Minister of Education, responded that this was not how the Crown's comments were meant to be interpreted. He reiterated that the Crown's mandate was to bargain over the issues raised in the *Right to Read* report:

trying to turn the page on this one, it's that we do want to keep a positive relationship; we have a good positivity to work off the gains of the education worker conversation and try to replicate that movement at the teacher table; and so know that the mandate that has been given to the Crown team, me, Matt is to get a freely negotiated agreement with you, and yes we have a mandate to work through this particular Right to Read report with you; it's an extremely important element for us and we are going to approach and bargain extremely hard for it; but we think we can find our way through this through collaborative conversations [Tab 13, p. 2]

52. In the spirit of a continued commitment to negotiate with respect to diagnostic assessment for early years reading, on June 23, 2023, Tara Zwolinski, a staff member in ETFO's Professional Learning/Curriculum Services Department, provided a comprehensive presentation on teacher professional judgment, including as it relates to diagnostic assessment for reading [Tab 14 - ETFO Central Table Notes, 2023-06-23; Tab 15 – ETFO PowerPoint Presentation].

53. Following ETFO's presentation, further discussions took place between it and the Crown regarding literacy screening, and its relationship to both PPM 155 and the previous collective agreement:

[Davis]: I don't actually have qs but some comments

A bit of a rough sketch of where the convo could go to

A theme here is research evolves

Cursive – yes no

More recently the science of reading

There is a pendulum and we have seen it swing

You covered a piece where there was too much data, too much centralization

Perhaps that pendulum has swung too far other way – no centralization

Those extremes take us to either/ors

Convo is about “and”

Common ground – we are all coming from the perspective of the best interests of the stus

I hear that

Standardized assessments is only part of the solution, not the solution

This comes from earlier remarks

When talking about early screening

Still think there is a role for teacher judgment

Still diagnostics that the teacher may use that is warranted

That nothing is changing on the tier 2s

We have announcements for funding for tier 2 and 3

Increased funding for psych another professions

Taking this back to the CA

There is an argument that the CA is not an impediment  
PPM does include...

Back to my opening – not really wanting an either/or

The and is the screening

It is keeping outside the screening the PJ and use of additional diagnostics

The other part of that and is resources for tier 2&3

With that rough sketch and those remarks

What we leave you with

[Mastrobuono]: thought I heard you say CA is not an impediment in this convo

[Davis]: there is an argument that as the PPM is structured it was not indented to impede standardized assessments – ex EQAO  
Don't want to get into an argument about what is in and what is out  
[Tab 14, p. 11]

54. ADM Davis's comments suggested that the Crown's view was that "there is an argument" that it could implement the *Right to Read* recommendations within the existing framework of PPM 155 and C9.00, but that its interest continued to be to discuss the topic with ETFO with an aim of reaching a negotiated solution. This was consistent with Mr. Lawson's earlier comments that "The goal to introduce language is to have a discussion to get to a negotiated resolution" and that unilateral action by the Crown would only be considered if bargaining failed. It was also consistent with ADM Davis's own comments on February 28, 2023 that the Crown's mandate was to bargain over the issues related in the *Right to Read* report and to achieve a negotiated solution with ETFO.

55. ETFO continued to operate on this foundation, and continued to believe that it and the Crown would engage in good faith bargaining on the topic of implementation of the *Right to Read* recommendations, and the role of teacher judgment in diagnostic assessment.

## **PPM168**

56. PPM 168 [Tab 16] is dated July 28, 2023, and is effective as of the start of the 2023/24 school year. It effectively implements aspects of the *Right to Read* recommendations related to literacy screening.
57. PPM 168 was introduced unilaterally by the Crown while central bargaining was ongoing and the statutory freeze was in effect.
58. PPM 168 requires School Boards to have all students in Year 2 of Kindergarten, Grade 1 and Grade 2 screened for early reading using a ministry approved screening tool twice per year. For students who meet the benchmark in the first screening, the second screening is optional. The first screening should take place at the start of the school year, while the second screening should occur by the middle of March. The specific dates may be adjusted by school Principals, in consultation with teachers, if it is in the best interests of students.
59. PPM 168 also requires School Boards to develop and implement a process for regular data collection and monitoring of student screening, using a robust and secure data collection and recording system. The data that must be collected includes not only screening results, but other relevant and associated information such as the screening tool used and previous interventions or supports provided to the student.
60. The overall effect of PPM 168 is a return to the pre-PPM 155 situation with respect to diagnostic assessment of student reading.

## **ETFO Learns of PPM 168 in the Midst of Central Bargaining**

61. At 4:56pm on Friday, July 28, 2023, ETFO received various documents and memos from the Ministry of Education about the implementation of various measures it had taken that day under Bill 98, the *Better Schools and Student Outcomes Act, 2023*. At the same time, it also received notice of the existence of PPM168.

62. The introduction and the timing of the introduction of the PPM came as a shock to ETFO. It viewed PPM 168 as being the very unilateral action that the Crown had repeatedly said it would *not* pursue so long as the parties were working in good faith towards reaching a negotiated agreement on this topic. From ETFO's perspective, those discussions were still ongoing, and there was no reason to believe that they would be unsuccessful. ETFO was committed to bargaining in good faith around this topic.

63. The parties returned to central bargaining on July 31, 2023 – the Monday following the introduction of PPM 168 [Tab 17 – ETFO Central Table Notes, 2023-07-31]. ETFO began the session by asking the Crown to explain aspects of PPM 168 and how it interacted with PPM 155 and Article C9.00:

[Mastrobuono]: We have some questions based on what was issued on Friday and the PPM

Questions:

PPM 168 indicates that PPM 155: Diagnostic Assessment in Support of Student Learning does not apply to early reading screening. Help us to understand how the early reading screener is not a diagnostic assessment? This is directed to the government.

C.9 of the Collective Agreement indicates that teachers' professional judgement informs the use of diagnostic assessment – both choosing

the assessment tool from the Board list of preapproved tools as well as the frequency and timing of the tool. From reading what was produced late Friday afternoon, what we are hearing is that the government believes it is not violating the terms of the collective agreement, specifically C9.00 around professional judgement, when it introduced PPM 168. Help us to understand that. How that works? Help us to understand the government's reasoning for this. [Tab 16, p. 3]

64. Following a caucus, the Crown returned and provided the following response:

[Beattie]: Thanks for your patience. Appreciate, Lisa, the overview of the PPM and the questions

Start by recognizing that this stems from Human Rights - right to read report;

We have been clear since beginning of this round our intent to implement this recommendation

Have created opportunities for dialogue and conversation

Presented materials to make clear our intent to introduce PPM

Friday's PPM in line with that

PPM 155 is clear in scope of what it applies to; details what is excluded – large scale assessments, including ministry-mandated assessments.

The Early reading screener is both large scale and ministry mandated

Re: C9

You also referenced PPM must be implemented in line with CA

Don't believe there's a conflict

Not an either/or situation

See it as a "both"



Another thing, PPM 168 reinforces this: diagnostic assessment and classroom assessment complement screening and vice versa

Purpose of early reading screener is to identify needs for additional tiered supports

Anything to add, Andrew?

[Davis]: Think that covers it.

Recap

We are trying to ensure that CA prevails. Criteria why this applies.

Pick up where we left last time.

Can move together and be complementary.

Have had positive discussion... would like to take this back to positive discussion. Diagnostic and classroom assessment would remain. Not looking to change. Talk about how best to implement these recommendations. How to best implement these recommendations.

Funding announcement to that effect already. Also funding for destreaming.

Proof of positive conversation. [Tab 16, pp. 4-5]

65. While the Crown had previously suggested that there was a theoretical argument that it *could* make that the screening tools it was considering fell outside of PPM 155 or C9.00, this was the first time ETFO understood the Crown to actually be taking that position. It was the first time that the Crown had formally indicated its view that province-wide reading screening fell into the large-scale/ministry-mandated exception in PPM155. It was the first time that ETFO had heard that the

Crown drew a distinction between a “diagnostic assessment” and a “classroom assessment”.

66. ETFO does not accept these positions to be correct. However, there was never an opportunity to adequately discuss the Crown’s position because it had already acted unilaterally and promulgated PPM 168.

67. In light of its conduct in taking this unilateral action, ADM Davis’s comments about still having to have a “positive discussion” rang hollow. There was effectively nothing left to discuss. The Crown had acted unilaterally and imposed new obligations with respect to reading assessment, while taking the position that neither PPM 155 nor C9.00 applied to these assessments. There was simply nothing left to discuss.

68. ETFO made these views clear to the Crown at the bargaining table:

[Mastrobuono]: We don’t have any questions.

- The cognitive dissonance in my mind was quite active. When is a diagnostic not a diagnostic? very confusing in my mind as a teacher. It’s a diagnostic but not a diagnostic...
- I want to make clear that our comments are directed at the government team. It’s really about what happened on Friday; what we saw happen on Friday.
- This is certainly an interesting way for the government to bargain
- Just heard things like “positive discussion.” What positive discussion happened on Friday, I’m not sure?
- little to nothing was said at the table but create regulations and PPMs on things in the collective agreement that should be bargained at this table.

- ETFO has tried to approach bargaining with the government respectfully, with an open mind and tried to approach with good faith. we HAVE approached with good faith
- Even when we saw the government pass a regulation mandating 4 year agreements – something that should be negotiated – we continued to operate at this table in good faith. Have been able to negotiate in good faith at another table.
- ETFO has made it clear at this table many times that the professional judgement language is important to us and to our members. It supports their professionalism. Their professionalism is the ability to choose diagnostic tools. We brought one of our experts to talk about diagnostic assessment.
- We have made several submissions at this table about the issue. We welcome discussion on the issue, but that's not what happened. What we got was a mandate and a directive. What we saw on Friday was a conclusion of these mandates and directions.
- So what does that signal to us? It signals that this government doesn't respect our members, doesn't really respect ETFO, does not respect collective agreement language and does not really understand what it means to bargain in good faith.
- There are many ways to pursue good faith bargaining here at this table in a way that preserves good working relationships around issues like prof judgement. There are many ways to discuss professional judgement at this table in good faith and that builds our relationship.
- What the government did on 4:56 pm on Friday did not demonstrate good faith bargaining – at all. It doesn't preserve relationships with ETFO, and it clearly demonstrates the government's lack of regard for 83,000 public elementary teachers in the province and lack of regard for their union
- Given what happened on Friday, and what we've heard this morning, we don't think we can engage further today.

Thank you. [Tab 16, pp. 5-6]

## **The Crown's Conduct Has Violated the Duty to Bargain in Good Faith**

69. Section 32 of the *SBCBA* requires the Crown to bargain in good faith in the context of central bargaining.

70. The duty to engage in good faith includes a duty to engage in open and honest dialogue. It imposes an obligation to make every reasonable effort to make a collective agreement. It imposes a duty to respond honestly when asked in bargaining if a party is contemplating initiatives of the type which will have a real likelihood of significantly impacting on the bargaining unit, and to reveal to the union proactively those decisions already made which may have a major impact on the bargaining unit. These duties were violated by the Crown's conduct.

71. In this case, the Crown understood that ETFO was concerned about preserving the role of teachers' professional judgment with respect to diagnostic screening of students, and its view that the issues raised in the *Right to Read* report engaged both PPM 155 and Article C9.00, both of which were of great importance to ETFO.

72. The Crown explicitly indicated at the bargaining table that its goal was to continue to have a positive dialogue about these issues. To the extent that the Crown ever raised the possibility of taking unilateral action through its regulatory authority, it clearly tied this to a scenario in which negotiations failed. The Crown repeatedly told ETFO that unilateral action was not something it was considering while the parties worked to reach an agreement at the bargaining table.

73. At no point during bargaining did the parties reach an impasse with respect to issues surrounding diagnostic testing or the *Right to Read* report. While no

agreement had yet been reached, both parties were active in presenting their views, asking questions, and responding to submissions from the other. If the Crown had a substantive proposal to make at the bargaining table, ETFO was certainly open to entertaining that proposal and responding appropriately. ETFO never shut down bargaining on the issue and had no indication until minutes before the end of the work week on July 28 that the Crown had decided to do an end run around the bargaining table, the very antithesis of good faith bargaining.

74. In this context, the Crown's decision to promulgate PPM 168 was an act of bad faith. In effect, the Crown misled ETFO when it repeatedly indicated that its desire was to negotiate an agreement respecting diagnostic testing and would not act unilaterally so long as those negotiations were ongoing. Those statements were not true. If the Crown intended to act unilaterally, at a minimum it had an obligation to raise those intentions in collective bargaining in order that the parties might engage in full and fair discussions on the issue.

#### **The Crown Violated the Statutory Freeze**

75. Bargaining for a new collective agreement is ongoing, and the statutory freeze under the *LRA* and *SBCBA* is in effect.

76. Article C9.00 is a term or condition of employment, or right, privilege or duty that is subject to the statutory freeze.

77. The substance of PPM 155 as it relates to teachers also constitutes a term or condition of employment, or right, privilege or duty that is subject to the statutory freeze.

78. In the context of central bargaining that included diagnostic assessment as a central term, the Crown was acting as an “employer” for the purposes of the freeze provisions.

79. In the alternative, the Crown’s conduct violates the statutory freeze because, in promulgating PPM 168, it has required School Boards, who are employers, to violate the statutory freeze. By exercising its regulatory authority under the *Education Act* to compel School Boards to violate the statutory freeze by imposing mandatory rules impacting the terms and conditions of employment for ETFO members, it has, in effect, stepped into the shoes of the School Boards. It would render the statutory freeze provisions of the *LRA* meaningless if the Crown can use School Boards as its alter ego to control the educational workplace yet maintain that it is not the employer and, therefore, has no obligations under s. 86 of the *LRA*.

80. The effect of PPM 168 is to substantially alter the terms and conditions or any right, privilege or duty of ETFO’s members. It does this by, *inter alia*:

- a. Removing their right under Article C9.00 to exercise their own professional judgment in the selection of the specific diagnostic screening tool to be used with respect to particular students’ reading ability;
- b. Removing their right under Article C9.00 to exercise their own professional judgment in selecting the timing and frequency of using diagnostic screening tools with respect to particular students’ reading ability;

- c. Imposing a significantly expanded workload through the requirement to assess every student twice per year from Year 2 of Kindergarten through to Grade 2;
- d. Imposing a significantly expanded workload without providing the appropriate training necessary for the implementation of the screening tool or the time for such training (without accepting that this screening tool has been appropriately introduced) and interfering with the ability of the members to plan the way in which they deliver curriculum and the timing of any diagnostic assessment which they intend to perform according to their professional judgement; and
- e. Imposing a significantly expanded workload through the requirement to input data obtained through the diagnostic assessment process into a centralized database.

81. ETFO has not consented to these alterations.

### **Request for Expedited Hearing**

82. PPM 168 is set to take effect on September 1, 2023 and will immediately begin to have an impact on teachers' exercise of professional judgment and the terms and conditions of their employment at the outset of the 2023/24 school year.

83. PPM 168 now also serves as a major impediment to further central bargaining. Notwithstanding the Crown's claim that it seeks to continue to have a productive conversation about diagnostic assessment, PPM 168 has effectively eviscerated both PPM 155 and Article C9.00. It is difficult to see how further bargaining at the

central table could be productive until this issue is resolved, at least with respect to “diagnostic assessment”, which is a central issue for bargaining.

84. ETFO therefore asks that the Board exercise its jurisdiction to control its own process and to issue all order necessary to ensure an expedited proceeding such that this dispute can be resolved with minimal disruption to either central bargaining or the 2023/24 school year.

85. ETFO reserves the right to expand further upon these particulars as may be necessary in response to any materials filed by the other parties.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**