



LEADERSHIP, ADVOCACY AND SERVICE FOR MANITOBA'S PUBLIC SCHOOL BOARDS

January 29, 2024

Honourable Nello Altomare
Minister of Education and Early Childhood Education
Room 162 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

Honourable Malaya Marcelino
Minister of Labour and Immigration
Room 156 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

[by email only]

Dear Ministers Altomare and Marcelino,

It is our understanding that the government is considering an amendment to *The Labour Relations Act* to restrict replacement workers during a legal strike and/or lockout. In the public education sector, until recently, there have been very little labour disruptions in the form of a strike.

One of the longest strikes in our sector occurred between the Rolling River School Division and Canadian Union of Public Employees Local 1630, in late 2021 and early 2022. During this strike, Rolling River School Division had approximately 22 custodians on strike for 92 days. In this situation, the division was able to secure replacement workers given its proximity to a major population center. These replacement workers were critical to maintaining student and parental expectations for non-disruption of programming and services through their local education system. Without these replacement workers, it would not have been possible for schools to provide continuity of service and approximately 1,800 students would not have been able to attend class. Ultimately, the Manitoba Labour Board imposed an amended collective agreement, due to the ability of the Division to secure replacement workers. This measure enabled the Division to respond to the rights of their unionized employees, while meeting the needs of students and parents/guardians through their schools.

In a similar vein, Hanover School Division recently experienced a strike with their Educational Assistants. This employee group is represented by CLAC Local 306. During this strike, the Division did try to secure replacement workers. However, notwithstanding proximity to a major population center, the Division was only able to secure a small number of workers. During this labour disruption, the Division proved able to keep classes operating in their schools in spite of significant challenges in doing so. Keeping schools open allowed more than 8,500 students to attend classes on a regular basis but through special arrangement that placed increased burden upon all school staff.

The majority of non-instructional (support) staff in the public education sector are unionized. These bargaining units vary in size and structure. Some school divisions have bargaining units which are comprised of all support staff under a single collective agreement, with one union representing these staff. Other school divisions have several different support staff unions representing a variety of support staff classifications, while other school divisions do not have any unionized support staff. To cite a few examples: all support staff in Evergreen School Division fall under one collective agreement; by contrast, Louis Riel School Division maintains three collective agreements, one representing educational assistants, one representing custodial and bus drivers, and one representing clerical and technical staff. Examples of school divisions with no unionized support staff are: Beautiful Plains, Southwest Horizon, Prairie Spirit and Border Land School Divisions.

A ban or legal restriction on replacement workers would certainly impact select divisions to a greater extent than others but as referenced above, proved of essential necessity in one recent example where a strike did take place.

When we look to our closest neighbouring provinces, Alberta, Saskatchewan and Ontario, there is no legislation banning replacement workers. School divisions in these provinces, which often experience strike/lockout mechanisms for responding

to bargaining impasses, are therefore able to maintain continuity of service to ensure that students, some of whom are already in need of such vital supports as nutrition and meal programs, social-emotional services, health and social services, and learning recovery and mental wellness programming, are not unduly impacted when a strike or lockout does in fact occur.

For these compelling reasons, we believe that imposing any ban or restriction on replacement workers in Manitoba would erect a significant obstacle in our ability to meet these critical needs. Based on the experience of jurisdictions such as Quebec and British Columbia, which do have legislation restricting replacement workers, we are all too aware of the prospect of expensive litigation over what constitutes a replacement worker (as has occurred in recent instances of strike/lockout in those provinces), along with risk of foreseen disruption of the essential services provided through the public education system.

As seen in the Rolling River strike (2021/2022) and Winnipeg School Division UFCW Bus Driver strike (2020), Section 87.1 of *The Labour Relations Act* was commensurate for ending these labour disruptions. Section 87, which was brought in by the former NDP Government, provided a suitable alternative to a legal ban or limitation on replacement workers by allowing for either party in a labour dispute the opportunity to apply to the Manitoba Labour Board (following 60 days of work stoppage) to impose an arbitrated settlement. This legislation, by general consensus, is working as it ought by providing an automatic mechanism to end work stoppages by requiring the parties to submit to either arbitration or to negotiate a settlement.

A legal ban or restriction on replacement workers in the public education sector would therefore represent an unnecessary burden that will not add to the sustainability of our services. Our education sector directly depends upon our ability to respond to student and community needs to ensure that labour actions can take place while equally assuring service continuity for the benefit of all sides and interests in the event of a strike or lockout.

It is therefore our opinion that the current provisions of *The Labour Relations Act* are fair, reasonable and working as intended and that current contemplation of a further legal restriction upon replacement works ought not apply to the public education system in Manitoba.

Should you have any questions or wish to discuss this matter further please feel free to arrange a meeting. Our Executive Director, Josh Watt, can be reached at jwatt@mbschoolboards.ca at any time.

We thank you in advance for your consideration of our concerns and look forward to working with you to achieve constructive outcomes for the sustainability of our programming, supports and services.

Sincerely,



Sandy Nemeth, President

cc: Brian O'Leary, Deputy Minister, Manitoba Education and Early Childhood Learning
Bernadette Preun, Deputy Minister, Manitoba Labour and Immigration
Josh Watt, Executive Director, Manitoba School Boards Association
Morgan Whiteway, Director, Labour Relations Services, Manitoba School Boards Association