

## **A Blueprint for Dealing with Concerns of AAESQ Members**

### **Introduction**

On July 1<sup>st</sup>, 1998, we saw the implementation of language based school boards rather than school boards based on a confessional basis and also the formation of the Association of Administrators of English Schools of Quebec (AAESQ). Since that time, AAESQ has had to deal with concerns brought forward by our members, which has led to discussions with school board officials and in some cases filing of “Notices of Disagreement”. All of this has resulted in having an impact on our members in performing their responsibilities, either as school/centre administrators or board level administrators.

Since the inception of AAESQ, the mission, goals, and policies of the association have evolved because of this.

### **AAESQ Mission**

AAESQ is a professional association representing school, centre and board level administrators of English Schools of Quebec dedicated to servicing its members and to promoting excellence in administrative leadership in public education.

AAESQ's purpose is to:

- a. To promote excellence in education
- b. To advance the professional status of educational administrators and secure their recognition as a vital and distinctive component of the educational system;
- c. To establish and maintain the principle that persons engaged in education administration have adequate qualifications and training;
- d. To promote a high standard of professional ethics among educational administrators;
- e. To promote growth of leadership in educational institutions;

### **Labor Relations**

Certain Conditions of Employment of Senior Staff of School Boards and of the Comité de gestion de la taxe scolaire de l'île de Montréal (Regulation) and the Education Act (R.S.Q., c. I-13.3, s. 451) as well as the Local Management Policies of the individual school boards are the governing factors which must be respected. The Provincial text is in the form of a law and the Local Management Policy is part of that law.

Various situations have faced the membership and the administration of the school boards to proceed in specific ways. The purpose of this document is to review the more predominant situations which have led us to deal with Chapter IX entitled “Recourse” dealing with a “Notice of Disagreement”. If there is no agreement, the process continues to the next level i.e. “Appeals Committee” as outlined in the working conditions. This procedure can only be carried out on behalf of the member by the association and not by the Local.

One should not forget, “Chapter IX does not apply to a senior staff member on probation”. It is the responsibility of the AAESQ to represent the interests of the members and the Local Management Association (L.M.A.) at the provincial government level. To this end it will develop policies and / or procedures to assist individuals and to assure the protection of their rights.

At a certain point during a “period of disagreement” legal expertise may be required therefore the Association has developed provisions which can be of assistance.

### **Policy for the Provision of Assistance to Members and Local Management Associations**

#### **Preamble**

##### **Recognizing that:**

- a) Administrators can provide a valued service to their educational communities, thus ensuring the most appropriate education to the students, when they work in an atmosphere of trust and confidence,
- b) The local and provincial associations have a responsibility to support the development and maintenance of such a working atmosphere on behalf of its members and Local Management Associations,

The Association of Administrators of English Schools of Quebec, in close collaboration with the Local Management Associations of the English School Boards of the Province of Quebec, has developed a policy to assist members who may experience particular difficulties.

To provide this support the AAESQ needs to recognize its own expertise and to develop a sense of responsibility both at the “L.M.A.” and at the AAESQ levels. Within the AAESQ we need to be able to give advice and support when an individual or his/her “L.M.A.” is in need. The AAESQ must also recognize that it may be required to seek assistance to fulfill these objectives.

#### **Over the years**

To assist the Executive Committee, and the Board of Directors this report highlights the different cases that have been handled and we have grouped them into six (6) categories. It includes members who have not completed two years of fulltime service and those with more than two(2) years of service.

#### **Categorization of situations**

1. Failure of probation
2. Administrator under investigation
3. Dismissal of administrator
4. Non-compliance with existing procedures
5. Administrative re-assignment
6. Required minimum qualifications.

### **Failure of probation**

Probation is a specified period of time during which an individual's performance or conduct is closely monitored. This term is found within the "Regulation", dealing with "Recourse" and states that *"This chapter does not apply to a senior staff member on probation"* which "must be less than 24 months". To the AAESQ probation has several components, one of which is evaluation. Evaluation means "to judge the value or condition of (someone or something) in a careful and thoughtful way". The Regulation also states that each school board must have an evaluation policy.

It is our opinion that the determination of the success of probation should, at the very least, include the evaluation policy of the school board. It is also our contention that if an administrator who has completed the two years of probation is promoted that an evaluation of one's performance after that time is an option but should not be considered as being on probation.

### **Administrator under investigation**

The term investigation means "a searching inquiry for ascertaining facts; detailed or careful examination". This is used when someone is required to verify statements or facts. The degree of seriousness may vary from one situation to another. During this type of process it is not unusual for someone to be relieved, of their duties, with pay. We have also faced situations of "irregularities" and "violation of conditions of a contract..."

A process like this is usually defined within the disciplinary section of the Local Management Policy. It is a policy, which as a detailed written document, is designed to assist managers and supervisors in carrying out their day-to-day responsibilities by acquainting them with all of the organization's policies and the procedures required to implement those policies.

It is not a matter to be taken lightly and procedures found within the local text should be followed and must not be taken for granted just because we are not working with a "unionized" document.

### **Dismissal of administrator**

In the review of our cases this has only occurred in a few situations. It is a separation from one's employment which under the terms of the "Regulation" may be contested if the individual is not on probation.

Once again, this should be defined within the disciplinary section of the Local Management Policy.

These processes have come to fruition after many interventions at the local level, by AAESQ and including legal consultations both before and during official arbitration sessions.

All of our member school boards have procedures and these are defined as a written statement that reflects the employer's standards and objectives relating to various employee activities and employment-related matters.

All employees whether they be in a supervisory capacity or not must be aware of and take note of such procedures. Ignorance of the law should not be excused nor should a sub-ordinate suffer unnecessary consequences from such actions.

### **Administrative re-assignment**

An administrative re-assignment occurs following the decision by the Director General to change someone's assignment. It may be disciplinary or not. Depending on one's classification salary protection is attached to the decision provided it is not disciplinary in nature.

For many this is viewed as a demotion but in the context of the "Regulation" it is not and may sometimes be carried out in a very arbitrary or subjective manner.

### **Required minimum qualifications**

The "Regulation" outlines minimum qualifications for each of the management positions and they should be respected.

Non-compliance by the Boards in the postings of positions have been discovered either by members within the local or by the AAESQ. In either case the only way that we can formally contest is through the "Regulation" and this can only be carried out if a member of the particular Local Management Association is willing to sign the "Notice of Disagreement".

### **Comments/Observations**

The following statements are being presented as comments, questions and observations for AAESQ members to consider.

#### **Part one**

Our membership is composed of;

- I. probationary administrators with less than two years since their first appointment,
- II. administrators who are required to evaluate a member on probation.
- III. administrators who are not required to evaluate.

#### **Group (I) - probationary administrators**

This group is made up of persons who are required to have valid teacher qualifications and would like to become an administrator.

In so doing, many do not realize the impact of the probationary status and its correlation with the evaluation process which varies greatly from one school board to another and the major difference with the unionized process. In addition, one must consider the impact of jurisprudence concerning management prerogative of those on probation.

#### **Questions:**

1. Should AAESQ be responsible to prepare a document that outlines what members should be aware of while on probation?
2. Should the Local Management Association be more proactive with their new members?
3. What risks face the individual on probation if they only have a one year leave of absence from their former teaching position?
4. Is there a potential problem that would arise if the new administrator does not have a teaching diploma and / or the required number of years of teaching?

### **Group (II)- administrators who evaluate**

Although this group is very limited in the number of individuals who are required to evaluate, they are members of the AAESQ and should follow the guidelines of their school board. At the same time they must understand the consequences of a failed probation.

#### **Questions:**

1. What guidelines do these individuals receive from their school board?
2. Should AAESQ know who these individuals are?

### **Group (III) –administrators who are not required to evaluate**

Basically these administrators may even be looked upon as mentors to their colleagues. One would hope that some of these administrators may also be involved in a number of school board committees, members of the Local Management Association, member of the Board of Directors or the Executive Committee of the AAESQ.

### **Part two – actions taken without guidance**

Some of the events to which we refer have indicated a link to actions taken without first seeking guidance from either the Local Management Association or the AAESQ. It is known that one may not be willing to share situations of difficulty with persons that surround them and may prefer to go to other sources for guidance.

#### **Questions:**

1. Should the first point of contact be the Local Management Association?
2. What can the Local Management Association do to make sure that those that they represent are aware of whom to contact in case of need?
3. What can AAESQ do to facilitate the solving of potential conflicts?

### **Part three- actions which by-pass the procedures of the Local Management Policy**

We have had situations that are the result of an error in judgement by both the administrator and / or the superior. The results have been quite varied; from receiving a written warning or reprimand, a suspension with pay, short-term disability followed either by a re-instatement, an out of court settlement with or without a resignation, a reassignment to another function within the school board or retirement.

**Questions:**

1. When was the last review of the Local Management Policy?
2. Do you think that the revision process that you encountered solved the concerns of your membership?
3. If one of your members faced one of the situations that have been presented would they have been appropriately treated?

**Further Comments/Questions/Observations to be Considered**

1. The AAESQ participates in all committees as outlined in the Management Working Conditions.
2. The Executive Director and the Executive Assistant have the mandate to report to the Executive Committee, the Board of Directors and the members the content of the Management Working Conditions.
3. Periodically, the members are informed of topics of interest and concern to prevent situations of potential disagreements with their employer.
4. The Executive Director and the Executive Assistant have the mandate to discuss specific cases with the appropriate school board. This is with the Director General and / or the Director of Human Resources.
5. For many years the Directors General have been former teachers, school administrators and board level administrators; recently, some have been hired with a more business-oriented background.
6. For many years school/centre administrators had been teachers for quite some time before being promoted. In the last ten years, as indicated in the working conditions one must have at least six (6) years of teaching before becoming a school administrator. Consequently, the new administrators have a much lower experience average than in the past.
7. The responsibilities of the administrators have dramatically changed over the years due to many new laws affecting the administration of a school and the school board.
8. The Local Management Policy became mandatory with the advent of language based school boards as of July 1, 1998.
9. The role of the Local Management Association has taken on many new challenges. The role of the President of the Local Management Association has become more challenging and requires more time being put in their everyday responsibilities.
10. Disciplinary procedures should be included in the Local Management Policy and by extension should be respected.
11. Does the text of a Local Management Policy carry less weight than the text of a unionized agreement? e.g., when it comes to specific timelines to be respected.
12. The impact of the written word versus "hand-shake" approach has led to more stringent consequences.
13. The revised "Education Act", i.e. the law governing educational institutions has given parents more responsibilities with the advent of governing boards.
14. The advent of internet and social-media has dramatically changed the availability of information.
15. If one is on probation and there is an evaluation policy shouldn't that policy be followed?
16. Jurisprudence can have an effect on those members on probation.
17. When one is on probation, members must understand that discretionary powers of management come into play.
18. The impact on one's time as a result of being responsible for the evaluation of a probationary sub-ordinate is a very demanding process and very important.

19. A promotion may be subject to an evaluation period.
20. Unsuccessful evaluations may lead to re-assignment or more serious consequences.
21. Do the newly appointed administrators understand the impact of the “two year probation” with a “one year leave of absence”?
22. Does being a superior not also include mentoring or pointing out “pitfalls” to those members under their authority?

### **Conclusions/Recommendations**

The conclusions and recommendations outlined below are based on the contents of the report which encompasses cases dealt with since the inception of AAESQ on July 1, 1998. In total twenty (20) cases were reviewed as well as other concerns that were brought to the attention of both the Executive Director and the Executive Assistant.

1. The objective of the Association when involved in a “Notice of Disagreement” is to attain a “win-win” resolution. This means that every effort should be made to resolve all cases via discussions with the Board rather than going to mediation or arbitration. It is less costly and both parties leave the “table” feeling good about the settlement.
2. The amount of \$7500 that is presently stipulated in the AAESQ legal defense policy that the Association is permitted to expend per “notice of disagreement” needs to be reviewed. An amount of \$15000 would be more realistic in today’s economy with regard to legal fees.
3. The AAESQ Reserve Fund should continue to be used as the budget to support all cases.
4. Any concern should continue to be dealt with at the local level as a first step towards a resolution of the disagreement. Advice from AAESQ is still to be encouraged and recommended at this point. If the matter cannot be resolved at the local level then the complaint should be brought officially forward to the AAESQ.
5. AAESQ, if required, should consult several lawyers before one lawyer is hired to help the AAESQ resolve a “notice of disagreement”.
6. Since there is a selection process in place for the naming of an arbitrator if a “Notice of Disagreement” is filed, AAESQ must come to an agreement with the school board on the selection of the arbitrator.
7. On an annual basis, the employee groups are asked to provide feedback on arbitrators. This would ensure that an appropriate arbitrator would be named, especially if the AAESQ member wishes to have their case heard in their language of preference.
8. Before any costs are incurred by the Association with regard to legal fees, the member must be informed and must sign a form indicating that all costs above the amount stipulated allowed to be expended by the Association per “Notice of Disagreement” will be borne by the member. A deposit, to be determined, must be provided by the member at the outset of the process which will be kept by the Association, and would only be used once the stipulated amount has been exceeded.
9. The President of the Local needs to provide whatever information is required regarding “Notice of Disagreement” to all members of the local at the beginning of each school year.
10. Deadlines as stated in the “Regulation” pertaining to a “notice of disagreement” being filed must be respected at all times or could be deemed as not receivable.



### **Summary**

In all, 20 cases were reviewed and analysed back to July 1, 1998, the inception of AAESQ as the association representing administrators in the 9 Anglophone School Boards including Du Littoral.

Of the 20 cases reviewed, 16 were resolved without going to arbitration, one case was not retained by AAESQ, one case was resolved by mediation and 2 cases were decided through the arbitration process.

The total legal costs incurred by the association since July 1, 1998 is approximately \$33,000, an average of little over \$2,000 per year.

Respectfully submitted May 22, 2014 at the Board of Directors Meeting in Quebec City.

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