The Alberta Teachers' Association

Calgary Public Teachers
Local 38
Information Meeting

Teachers' Rights
and
Contracts of Employment

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STAFF REDUCTION

- Staff reduction policies

- Terminations

- Contracts of Employment

- Recent decisions and implications

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STAFF REDUCTION POLICIES

- Budget cuts

- Participation by staff members in staff deployment decisions – Collective Agreement

- Spring procedures

- Individual implications

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Slide 1

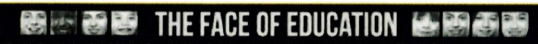The Alberta
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Contracts
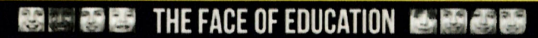# Of
Employment

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CONTRACTS

This summary is not all-inclusive. Seek counsel from Member Services of The Alberta Teachers' Association for further information.

Education Act Section	Temporary 209	Interim 210	Probationary 206	Continuing 207	Part-time 211	Substitute 208
ACCEPTANCE	Offer in writing by an authorized person and accepted in writing by the teacher					
NOTABLE FEATURES	•replacement for a teacher expected to be absent for 20 days or more from duties	•cannot exceed 360 teaching days	•standard first-year contract valid one year •may be renewed for one year	•standard contract for teachers remaining from year to year •continues in force from year to year	•can be part-time (temporary, interim, probationary, continuing)	•no written contract or acceptance need exist
TIME IN FORCE	•full-time/part-time •for dates specified in contract or until June 30	•full-time/part-time •dates specified in contract or until June 30	•full-time/part-time •one complete school year	•full-time/part-time •until terminated by board or teacher	•amount of time specified in individual contract •assigned time, can be varied by board for subsequent semester or school year	•day to day •position expected to be fewer than 20 consecutive teaching days
TERMINATION	•30 calendar days notice by either party	•day specified or June 30 •30 calendar days notice with cause	•June 30 •30 calendar days notice with cause	•board must give 30 calendar days notice with cause •teacher must give 30 calendar days notice •cannot be during or in 30 calendar days prior to a holiday of 14 calendar days or more (Education Act s 217)	•30 calendar days notice with cause •or as specified within contract	
APPEAL OF TERMINATION	•right of natural justice •none if proper notice given	•right of natural justice if date other than as specified in the contract	•right of natural justice if mid year •none if terminates on June 30	•right of natural justice •appeal to Board of Reference	•depends on nature of contract	
CAUTIONS	•avoid contracts which state termination is "upon return of teacher"				•changing from full-time to part-time can mean forfeiting rights •seek ATA advice	

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TEMPORARY CONTRACT
(Education Act)

209(1) A teacher may be employed by a board under a temporary contract of employment when that teacher is employed for the purpose of replacing a teacher who is absent from the teacher's duties for a period of 20 or more consecutive teaching days.

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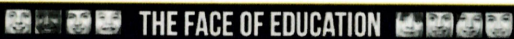
TEMPORARY CONTRACT
(Education Act)

209(2) A temporary contract of employment entered into under subsection (1) must

    (a) specify the date on which the teacher commences employment with the board, and

    (b) terminate

        (i) on the June 30 next following the commencement date specified in the contract, or

        (ii) on a date provided for in the contract, whichever is earlier.
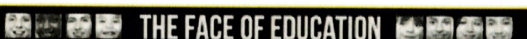
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TEMPORARY CONTRACT
(Education Act)

209(3) Notwithstanding anything contained in a temporary contract of employment, a party to a temporary contract of employment may terminate that contract by giving 30 days' written notice of the termination to the other party to the contract.

(4) Section **231** does not apply to the termination of a temporary contract of employment under this section.

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PROBATIONARY CONTRACT
(Education Act)

206(1) A board may employ a teacher under a probationary contract of employment for a complete school year if that teacher

(a) was not employed by that board as a teacher in the school year immediately prior to the school year in which the contract is entered into, or

(b) in the school year immediately prior to the school year in which the contract is entered into was employed by that board under section 208 or under a contract referred to in section 209.

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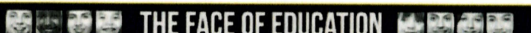**The Alberta Teachers' Association**

PROBATIONARY CONTRACT
(Education Act)

206(3) A probationary contract of employment terminates on the June 30 next following the commencement date specified in the contract.

(4) Notwithstanding subsection (3), if evaluations of the teacher indicate to the board that a further probationary period is required and the teacher agrees, the probationary contract of employment may be extended for a further period ending no later than the June 30 next following the date of the renewal of the contract.

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Termination of Temporary Contracts

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TERMINATION BY BOARD
(Education Act)

215(1) ... a board may terminate

   (a) a contract of employment with a teacher, or

   (b) a designation of a teacher made pursuant to section 202, 203 or 204, after serving the teacher with written notice of termination not less than 30 days prior to the effective date of termination.

(2) In terminating a contract of employment or a designation, the board shall act reasonably.

(3) A notice of termination of a contract of employment or a designation must specify the reasons for the termination.

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NOTICE OF TERMINATION
(Education Act)

217(1) Subject to section 214(2), a notice of termination of a contract of employment or of a designation made pursuant to section 202, 203 or 204 must not be given by a board or a teacher

(a) in the 30 days preceding, or

(b) during a vacation period of 14 or more days' duration.
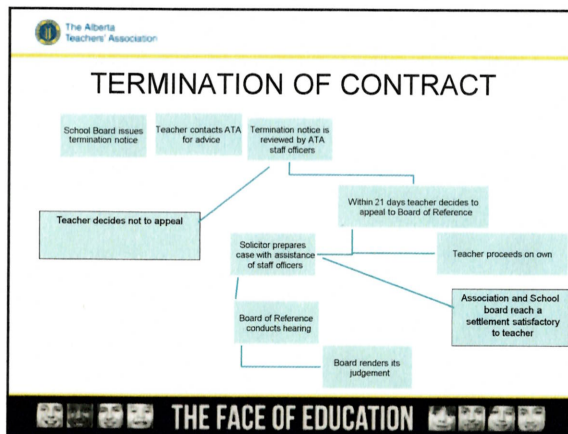
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TERMINATION OF CONTRACT

School Board issues termination notice

Teacher contacts ATA for advice

Termination notice is reviewed by ATA staff officers

Teacher decides not to appeal

Within 21 days teacher decides to appeal to Board of Reference

Solicitor prepares case with assistance of staff officers

Teacher proceeds on own

Association and School board reach a settlement satisfactory to teacher

Board of Reference conducts hearing

Board renders its judgement

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TERMINATION OF CONTRACT
(Education Act)

214(1) A contract of employment between a board and a teacher automatically terminates at the time that

(a) the teacher's certificate of qualification is suspended or cancelled by the Minister, or

(b) the teacher's certificate of qualification expires.

(2) A contract of employment between a board and a teacher or a designation of a teacher made pursuant to section 202, 203 or 204 may be terminated by mutual consent.

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SUBSTITUTE TEACHING
(Education Act)

208(1) A teacher may teach without a contract of employment that is in accordance with section 205 only when the teacher is employed

(a) on a day-to-day basis, or

(b) to occupy a vacancy that is expected to be less than 20 consecutive teaching days in duration.
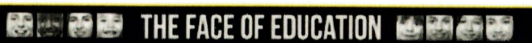
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SUBSTITUTE TEACHING
(Education Act)

208(2) Neither a teacher who teaches without a contract of employment that is in accordance with section 205 nor the board employing the teacher may appeal to the Board of Reference in respect of that teacher's employment.

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EVALUATIONS
(Provincial Policy)

10(2) A recommendation by an authorized individual that a teacher be issued a permanent professional teaching certificate or be offered employment under a continuing contract must be supported by the findings of two or more evaluations of the teacher.
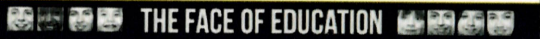
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RELEVANT DECISIONS

- Marceau, 2008

- Smith, 2013

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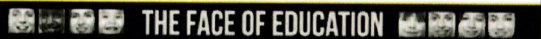
MARCEAU

- Court of Queen's Bench – Justice Marceau

- Rights to due process

- Ultra-vires clauses
  - Right to a hearing if terminated within the term – TC, Probationary and Admin designation

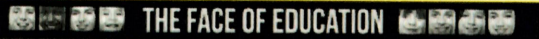**THE FACE OF EDUCATION**

SMITH

- Board of Reference, 2013
- Must show that it considered why the termination of the position or designation of each affected teacher was in fact a necessary consequence of the shortfall;
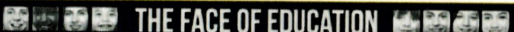- An individual assessment is required in each case

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OUTCOMES OF BUDGET CUTS

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- Non-personnel impacts
- Attrition
- Surplus – Transfer
- Surplus to district - terminations, right to recall
- Conversion to Part-time – maintain contract status, PT assignment time certain;
- Leaves
- Early retirements plans
- Temporary/Probationary contracts

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CONTACT MEMBER SERVICES

SARO (Calgary)
1-800-332-1280 or 403-265-2672

Barnett House
1-800-232-7208 or 780-447-9400

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