Quebec Provincial Association of Teachers
Association provinciale des enseignantes et enseignants du Québec

Bill 100: An Act respecting the negotiation and determination of conditions of employment requiring national coordination in particular in the public and parapublic sectors

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The Quebec Provincial Association of Teachers (QPAT) is the union federation that represents the 8,000 teachers who work in the province's English public schools. In this brief to the Committee, QPAT sets out its position and recommendations on Bill 100, *An Act respecting the negotiation and determination of conditions of employment requiring national coordination in particular in the public and parapublic sectors* (hereinafter Bill 100).

The brief's content will focus mainly on the sections of Bill 100 that will impact the negotiation of local matters and local arrangements arising from Bill 37, on the process of negotiation. Although we do not necessarily agree with all the other aspects of Bill 100, we have decided to limit our comments to the elements that, if adopted as written, will have a disproportionate impact on the education network.

The purpose of Bill 100 is to modernize Bill 37, *An Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors*, which has been in force since it was adopted and assented to in 1985. Since that time, under the process of negotiation introduced by Bill 37, local unions have been able to negotiate provisions that specifically address regional needs, features and situations. Although QPAT understands the Minister's current wish to simplify the negotiation process in the public and parapublic sectors, we object strongly to the fact that Bill 100 will, as a direct consequence, completely and unjustifiably eliminate all possibility of negotiating at the local level.

In its current form, Bill 100 wipes out more than 40 years of local negotiations that produced solutions tailored to the specific needs and situations of schools and centres. Solutions such as these, which are approved by local union bodies and school board employers, are now under threat. QPAT and its affiliate unions believe Bill 100 must be amended in order to maintain these possibilities at the local level because, in our view, they meet the needs and address the specific situations of schools and centres.

Complete centralization of negotiations will inevitably lead to the adoption of standardized measures that will certainly suit some schools and centres but will not address the specific needs and situations of others. In addition to the concerns that QPAT has already expressed, the abolition of local negotiations may also cast doubt on certain solutions negotiated over a period of decades that reflect the very particular situation of the English public school system.

In this brief, we begin by considering, first, the particular reality of union negotiations at the local level in the education network, along with their importance, and second, the potentially negative consequences of adopting Bill 100 as written and without

amendments. Lastly, we make a number of recommendations to improve the bill based on our situation, and to avoid harming the education network as a whole.

Local negotiations for teachers in the education network since Bill 37 was adopted

The problem of analyzing Bill 100 lies mainly in understanding the impacts of centralizing the negotiations when Bill 37 is repealed (section 98). For almost 40 years, the education network has developed a particular negotiating tradition for the matters mentioned in Appendix A-II of Bill 37. Under this tradition, local parties have been able to agree on operational rules and adapt specific conditions of employment to their geographical situation. For example, teacher assignments and transfers cannot be carried out in the same way in areas where schools are located 15 km apart (Island of Montreal) as in areas where schools are 100 km apart (Gaspésie, Abitibi).

QPAT categorically objects to complete centralization at the provincial level of matters that are negotiated locally. Decentralization of these matters was the core element of Bill 37 when it was adopted and assented to in 1985. If Bill 100 is adopted and assented to in the version tabled on April 23, it will inevitably lead to the denial of more than 40 years of local negotiations and a rejection of solutions adjusted to regional situations – solutions that are as valuable to the school boards as they are to the unions representing teachers.

When Bill 100 was tabled last April, Minister Lebel toured the media to explain the aims of her bill. During her interventions, she said among other things that she wanted to simplify and speed up the negotiating process in the public and parapublic sectors by centralizing it more, thereby eliminating the local negotiating level. According to her, this change would allow the government to negotiate all provisions with a monetary impact at the provincial level, including the conditions of employment of public-sector employees, hence making the negotiations more effective.

However, the complete and absolute elimination of local matters, and consequently of local agreements duly negotiated by unions and school boards, will require the addition of nearly 90 elements for negotiation at the sectorial negotiating table for teachers. Bill 37 provides a list of 28 elements for negotiation and every one of them must be negotiated in each of the three sectors in which teachers work (youth sector, adult general education and vocational training), for a total of 84 distinct elements. Although there are no major differences between the sectors for some matters, discussion and verification will still be needed to ensure that all new provincial texts are consistent and coherent.

The negotiating exercise to which Bill 100 may lead us, if adopted and assented to as written, would involve a combination of nine collective agreements each covering more

than 80 separate topics. It is also important to remember that the next round of provincial negotiations will cover not only these topics, but also all other demands (of which there are bound to be many) relating to all other traditional topics put forward by both sides.

Although the stated purpose of Bill 100 is to make the provincial process of negotiation more effective, abolishing local negotiations will have the exact opposite effect.

A local negotiating process that works and does not hinder the provincial negotiation

As far as teachers are concerned, it is important to understand that most of the provisions governing their conditions of employment are already negotiated at the provincial level as part of the current process, and that this has been the case since Bill 37 was adopted. In other words, most of the collective agreement is negotiated at the provincial sectorial tables, including the provisions with financial impacts. Local negotiations are held only after the sectorial agreement has been ratified and signed at the provincial level. Moreover, they focus mainly on elements with no public sector financial involvement, i.e. on elements relating to consultations with participating bodies of teachers, staff movement processes, employment priority lists and certain aspects of employment conditions, such as special leave.

As far as QPAT's affiliates are concerned, some local parties have recently entered into new agreements and others are in or about to begin negotiations. This process, which has been in place for more than 40 years, has led to the negotiation of provisions that, in the view of both the employer and the union parties, reflect the specific situations, features and in some cases the limitations encountered at both the local and regional levels.

In the English school system, there is an additional layer of specifics that set it apart from the French school system and that deserve to be taken into account. It is these specifics and differences, among others, that allow the school boards to maintain stability for teachers and provide the flexibility they ultimately need to meet the needs of the students they serve.

Each round of local negotiations provides an opportunity for both parties to improve or adapt their local agreements. QPAT believes that Bill 100, especially its provisions regarding teachers, will not only make the provincial level negotiations more cumbersome, but will also further destabilize an education network that most certainly does not need it.

The experience of the last round of negotiations (2023-2028): an example of centralization failing to address the needs of schools and centres

In the last round of provincial negotiations, at the sectorial table, the employer party showed a strong tendency to try and centralize a number of elements that would normally be the subject of local negotiations. Some of the demands tabled by the *Secrétariat du Conseil du trésor* at the "forums" held in October 2023 were contrary to Bill 37, because they did not respect the powers of negotiation at the local level. The tabling of Bill 100 constitutes an admission by the government that it was not justified in making those demands at the time. Another irritant that we feel should be highlighted in the latter stages of the negotiation is the fact that the *Conseil du trésor* took full control, to the extent of excluding our CPNCA counterparts from the equation. This decision, in contravention of Bill 37, prevented some clauses from being adjusted to the specifics of the English network, and at the same time made it harder to implement the new agreement with our employer counterparts. It is our opinion that the CPNCA's presence and involvement would have been necessary right up to the last stages of the negotiation, because of their knowledge of the field.

The best example of the harm caused by the intrusion into matters that are negotiated locally is the Minister of Education's demand to finalize the teacher assignment processes by August 8. This clause is not an improvement; on the contrary, it imposes a rigid, wall-to-wall approach that is detrimental to the acquired rights of many qualified teachers, and to schools. The most problematical aspect is the fact that all staff movements are prohibited after that date. This shows a complete lack of understanding of the assignment process in schools and centres, and constitutes a failure to anticipate the potential negative impacts of such a measure within the system.

For example, some qualified teachers who could, after a certain number of years, be placed on the priority of employment list for a given school board are now forced, before August 8, to accept fragmented workloads that maintain their insecure status. This is the opposite of what used to happen. As a result, these competent, well-trained teachers now no longer have access to interesting workloads that become available during the summer and that should be offered to them because of their status.

Under the new provisions, these positions are now usually filled by teachers who are not legally qualified (NLQ), just before the new school year begins. This is detrimental to educational quality, and to the students themselves. It is a clear illustration of what happens when a provincial negotiating level, detached from the reality of the situation in schools, decides to impose its "solution" and in doing so forces the local stakeholders concerned to take a significant step backwards.

The English school system has been penalized all the more by this measure because eight of the nine English school boards completed their hiring and transfer processes before the summer vacation. This new provision removes the opportunity for staff movements after August 8 and before the start of the new school year, creating absurd situations in which NLQ teachers are placed in classrooms even though legally qualified teachers would be available to fill the positions. In our opinion it is vital to maintain a negotiating level and a list of matters for negotiation at the local level so that the parties most connected to schools can agree on solutions that are both positive and applicable.

All school system stakeholders know that the assignment figures published in August 2023, which led to the Minister's unjustified demand, were not a realistic reflection of the actual number of vacant positions. As soon as the August assignment pools were held in the summer of 2023, the figures melted away. If more proof is needed, there were actually more vacant positions in August 2024 than in 2023. It was considered more important to give the illusion of improvement, for essentially political reasons, rather than actually attacking the roots of the teacher shortage in Québec.

Maintenance of the CPNCA in Bill 100

Like our partners in the English school system, we react positively to the fact that the CPNCA is maintained as QPAT's counterpart for negotiating sectorial matters at the provincial level. As partners in the English system, we have, over the years, managed to maintain a positive culture of cooperation, attempting to identify adapted solutions that suit the system's stakeholders and the broad range of environments, reflecting their respective realities. From this standpoint, we hope the fact that this body has been maintained in Bill 100 will not prove to be illusory or cosmetic, but that it will be a real factor in the next round of provincial negotiations. In other words, we hope there will be a real space for discussion between the parties on sectorial negotiating matters, and that the parties are given the flexibility they need to agree on adapted solutions that meet our school system's particular needs.

A pathway

In line with our arguments, our first recommendation is to amend Bill 100 by adding a list of local matters similar to those presented in Appendix A-II of Bill 37. As explained above, we believe local parties are best placed to discuss and agree on these matters.

1. We ask that a list of local matters similar to those in Bill 37 be maintained, and that the same agreed-upon structures be maintained to negotiate those matters.

However, after reading Bill 100 and listening to the Minister's public statements, we understand that the status quo is not an option. As an association, we are prepared to demonstrate openness and to help identify specific local matters that could become provincial matters.

2. We ask that discussions be held to amend the list so that certain local matters are maintained and, consequently, that other matters not on the list are negotiated at the provincial level.

In addition, we would like to propose improvements to the structures for local arrangements, which would become special agreements.

These arrangements are of determined duration and are currently revoked when a new provincial agreement is signed, in compliance with section 73 of Bill 37. In practice, the local parties almost always agree to keep them in force for the time needed to carry out their local negotiations. Section 37 of Bill 100 would introduce a 60-day period after which a special agreement would cease to have effect once the conditions of employment are agreed upon.

We believe it is time for these special agreements to be made permanent, and for all time limits ending them to be removed. This would mean that special agreements will be amended only when the local parties decide to do so.

3. We ask that a transitional provision be introduced to state clearly that the local arrangements existing in the 2023-2028 provincial agreement, duly negotiated pursuant to Bill 37, should be automatically considered as special agreements for the purposes of the new negotiating process if Bill 100 is adopted and assented to.

4. We ask that the special agreements should remain in force even after a provincial agreement is signed, on condition that the provincial provision allows for them to be amended when a new provincial agreement comes into force and the special agreements need to be adjusted accordingly.

Last, if none of the above recommendations is retained and the government decides to move forward with Bill 100 as written, we ask at least that all current local matters should be the subject of an agreement between the provincial parties in future. We have not

heard the Minister say that she wants to reduce the number of local matters – simply that she wants to change the level at which they are negotiated. This state of affairs should therefore be written clearly into Bill 100.

5. We ask that if Bill 100 is adopted as presented, a section be added stating that all local matters must be the subject of an agreement between the provincial parties.

Conclusion

To conclude, we hope we have been able, in this short brief, to show that the government needs to make a certain number of amendments to Bill 100 in order to reflect the specific situation of the education network. In particular, teachers need a local negotiating level to take into account the broad range of different local situations and needs.

Experience over the last four decades has clearly shown that the ability to negotiate specific provisions at the local level produces agreements that suit employers and unions alike, by addressing specific local needs. In addition, the existence of a local negotiating level has never caused the provincial negotiating process to become more complex or more cumbersome. All education network stakeholders know that the sectorial negotiating process would become more cumbersome, not less so, if the local level were to be eliminated completely. Instead of making the provincial process more efficient, it would destabilize schools – and this is a view that we share, this time, with our employer counterparts.

We remain at the disposal of the Minister and Committee members to help improve Bill 100 and ensure that, when adopted, it will not only achieve its targets but will also maintain elements that have worked well for more than 40 years. In other words, to use a stock phrase, let us make sure we do not “throw the baby out with the bathwater”.