



Memorandum

The Alberta Teachers' Association

INFORMATION MEMO

Date 2025 02 26

To Members of Edmonton Public Teachers' Bargaining Unit

From Sean D Brown, Coordinator, Teacher Employment Services (TES)

Re Canadian Union of Public Employees (CUPE) Labour Dispute with the Edmonton School Division—UPDATE

On 2025 02 20, the Court of King's Bench Justice Anna Loparco granted an injunction against a ministerial order that allowed the Edmonton School Division (Division) to prevent some students with disabilities from attending school. This injunction comes five weeks into the strike between the Division and CUPE Local 3550 (CUPE), representing educational assistants and support staff. In her ruling, Justice Loparco said it's in the public interest to ensure all students can attend school, even during a labour shortage, and that the four families in the lawsuit have suffered irreparable harm.

The Alberta Teachers' Association (Association) has been informed that, in response to the injunction, the Division may be redeploying some certificated staff from the central office to provide support in schools. Furthermore, the Association has received reports that school leaders may have been directed to move unassigned time and tutorial blocks to cover interaction blocks. While the school principal is entirely within their purview, as per the *Education Act*, where they "...must direct the management of the school" to reorganize blocks and assignments, it must be done responsibly. Furthermore, they must ensure proper and fulsome training for any new task or directive when assignments change. The Division must provide resources and support for school leaders to facilitate additional training.

This becomes critical for students who need exceptional medical or toileting support. In many cases, the requirements for these students have been written into their student support plans in consultation with their medical practitioners. Without the proper training, there is a risk not only for injury to a student but for the teacher as well. Willingly taking on tasks without the proper training, especially if something were to go wrong and the child were to be injured, could fly in the face of *in loco parentis*. This legal term means "in place of a parent" and describes when a non-parent takes on parental responsibilities for a child. Essentially, it puts a heavy burden on a teacher to do what a responsible parent would do.

. . . continued

The following advice is meant to help guide you during the challenging days ahead.

- Teachers should obtain clear direction from their school principals regarding the expectations resulting from the injunction. While “site-based decision making” places school leaders in a position of knowing their buildings the best, a common approach within the schools, wherever possible, should be followed for consistency's sake.
- Due to the CUPE strike, teachers may have questions about leave entitlements, duty-free lunch provisions, assignable/instructional time, or other collective agreement provisions. To be clear, your agreement remains in force, and school leaders have been encouraged to call TES for advice if questions arise about its implementation and interpretation.
- Regarding duty-free lunch, the collective agreement states that these provisions may be waived if an accident occurs, urgent work is necessary, other unforeseeable or unpreventable circumstances occur, or it is not reasonable for the teacher to take a rest period. However, the longer the situation goes on, the ability of the Division to rely on unforeseeable or unpreventable circumstances for not providing the break decreases. In the initial days, it may be more realistic for the time not to be provided, but as time goes on and a “new normal” is set, the Division will need to organize itself so that the breaks can be provided.
- Due to the order to have all students in person, a teacher may be assigned additional tasks in some situations. If teachers have concerns or questions about the additional assignment, they should follow this process:
 - Ask for clarification about why they are being assigned the work.
 - If directed, the teacher should follow the lawful order (see below for *Education Act* issue) of the Division unless the task is deemed unsafe under Occupational Health and Safety (OHS) guidelines or if they believe they have not been provided with the proper training or have not been provided with any available hazard assessments required to complete the task. (see **below for templates a teacher could use to protest the assignment or direction**)
- As shared in previous communications from the Association with members, the ambiguity regarding the role of the teacher exists because the *Education Act*, specifically s 196 (1)(g), states “a teacher, while providing instruction or supervision, **must**, subject to any applicable collective agreement and the teacher’s contract of employment, **carry out the duties that are assigned to the teacher by the principal or the board.**” Given this, teachers who feel directed to undertake a task they believe is unsafe, is not the work of a teacher or lack the necessary training and development to undertake the directive appropriately should **contact TES as soon as possible.**
- If additional tasks are assigned and extra time is justified, it is essential to note that assignable and instructional time limits are annual amounts. While there is some flexibility in assigning additional time to teachers if necessary, increasing a teacher’s time can only be done to the limits of their FTE (proportional to a typical teacher’s total assignable time) in the case of a part-time teacher or, if they are full-time, to a maximum of 916 hours of instructional time and a total of 1200 hours assignable time (inclusive of instructional time).
- Increases in time because of the CUPE strike should be carefully tracked and factored into scheduled time to avoid exceeding the assignable/instructional time caps per the collective agreement. If adjustments are required, you should work with your principal to address them, as no resolutions are available if maximums are exceeded.
- If additional work is assigned that was normally CUPE work, the reason for the extra work

should be explained and the measures considered or attempted shared with the teacher before it is assigned to them. This helps maintain trust and collaboration. Teachers should document their concerns or objections in writing and submit them to the school principal. This ensures your voice is heard while protecting you from potential employment ramifications.

- Some teachers are likely concerned about toileting/hygiene support and medication management for students and how to address those situations. To provide teachers with advice, the Association needs to know the plan. There may be instances where new tasks are directed. Still, they require specific training and inservicing to complete them effectively and comply with directives set out by a student's support plan.

You can contact TES for assistance if asked or directed to complete the tasks discussed above. You can also provide a letter outlining your concerns. Below, you will find a template(s) for your use:

Hi *(addressed to your school principal)*,

I have been asked to *(describe the CUPE-related task the teacher has been asked to perform)*.

With respect, I do not believe it is reasonable for the Division to ask me to perform this task because I do not normally do this kind of work as a teacher, nor would I be expected to since it would be handled by other personnel in the Division.

[OPTION 1, (two paragraphs)] I am not comfortable performing this task since I do not feel I have the proper skills or training to mitigate risk or fulfill my role of *in loco parentis* for the student(s). Potential hazards include injury to a student, damage to division equipment, respiratory hazards, and biohazard contamination that I am not properly trained to identify and control.

As a result, I do not believe it is appropriate for me to perform this task, and I request that the Division make arrangements to have this work done by a qualified professional.

OR

[OPTION 2 (two paragraphs), IF THE TEACHER PERFORMING THE TASK CONSTITUTES AN IMMINENT DANGER TO THEM AND/OR OTHERS IN SCHOOL, under Alberta's Occupational Health and Safety Act they should refuse to carry out work and state the following] I am not comfortable performing this task since I do not feel I have the proper skills or training to mitigate risk or fulfill my role of *in loco parentis* for the student(s). Potential hazards include injury to a student, damage to division equipment, respiratory hazards, and biohazard contamination that I am not properly trained to identify and control.

As a result, I believe it is my duty under the *Occupational Health and Safety Act* to refuse to carry out this task because it presents an **imminent danger** to my health or the safety **of other staff and students in the school**. I request that the Division arrange to have this work done by a qualified professional.

Thank you.

Your Name
Title and School

Should you choose the template above relating to "imminent danger," you are strongly advised to contact TES **before** you send in that version of the letter. Imminent danger is a high bar and could require other steps, like calling 911, reporting the danger, contacting parents, and possibly sending students home. Essentially, if you are reporting an imminent danger, you need to be prepared to act accordingly.

Due to schools' complex nature, general advice is difficult to provide. Most situations require significant contextual considerations to offer helpful guidance. As such, teachers are encouraged to call the Association.

It is undeniable that local teachers and school leaders will face additional pressures because of this development. This is what strikes do; they stress a system. They are meant to demonstrate the importance of the work that has been withdrawn.

Quite simply, the more work done outside the striking group, the longer it may take for the disputing parties to resolve.

Unfortunately, these situations are rarely simple. Teachers' work is complex, and there are often tensions between what they should be doing, given their education and expertise, and the work being assigned.

The current situation is particularly challenging for school leaders. Principals need to balance their school's needs and carefully support their staff. By following the Division's direction, they can ensure that messaging and direction are consistent.

Labour action can have a life of its own and is not easy, but it takes a concerted and sustained effort to make a difference. As a result, information from the Association to our members may change throughout any action that CUPE may engage in. We commit to keeping members as current as possible. We will continue to work with CUPE officials and your Local President, Ms Heather Quinn, to ensure teachers understand what is happening and how they can best manage the new pressures created by the labour action.

During any potential CUPE action, members with questions or concerns about their roles and responsibilities as teachers should contact TES at 1-800-232-7208.

SDB/dmc/ejl

cc H J Quinn, Local President, Edmonton Public Teachers' Local No 37

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TES and Local Staff Officers