

Clarification of Remedy Award — Class Size and Composition: 2006-07 and 2007-08 School Years (18 Districts)

Arbitrator Dorsey today released his clarifications (attached) regarding three specific issues on redress arising from his previous award of January 11, 2010. BCPSEA and the BC Teachers' Federation (BCTF) had been seeking clarification of these issues arising out of application of the original award at the district level:

- calculation when partial month taught by temporary teacher
- basis for calculating paid release time for secondary grade classes, and
- scheduling remedial paid release time by teachers.

Calculation when partial month taught by temporary teacher: Arbitrator Dorsey clarified that the entitlement to redress shall be shared on a pro-rated basis between the class room teacher and the temporary contract teacher. He stated,

“The clarification is that applicable tier remedial paid release time is to be prorated between the full time teacher(s) of the class and a temporary contract teacher of the class. The total amount of the paid release time is not to exceed the applicable tier paid release time for the month.”

No additional redress shall be awarded even if a month of teaching is shared.

Basis for calculating paid release time for secondary grade classes: This clarification confirms that secondary level teachers shall be provided redress when appropriate at a rate of 1/8th time per class (rather than 1/7th time). Dorsey stated,

“I confirm and clarify that the calculation of a teacher's remedial paid release time for a secondary grade class is based on a semester class being one-eighth or 12.5% of the workload of a full-time teacher.”

There is therefore no redress to be paid for proportional preparation time.

Scheduling remedial paid release time by teachers: When teachers have been provided redress-based release time, arbitrator Dorsey has confirmed that the teacher has the unfettered right to determine the day(s) they wish to take off with no obligation to do anything other than to provide the employer with administrative notice in accordance with the collective agreement or local policy or practice.

“The approach is that the paid release time is a remedy over which the employer, whose contravention caused the remedy, may exercise no control. If notice is given, the date selected by the teacher is not subject to prior approval by the employer.”

The implication of this clarification is that districts have no ability to deny a teacher time off established through redress, regardless of the consequence or situation in the school or district.

The clarifications provided by Arbitrator Dorsey today will be implemented as soon as possible. BCPSEA will be releasing to school districts guidelines for determining and applying redress for the remaining classes in dispute for both the 2006-07 and 2007-08 class size and composition grievances in the near future. Named districts should, in the meantime, continue with the cooperative process of reviewing classes in dispute with their union local.

For a full copy of Arbitrator Dorsey's previous award on remedy released January 11, 2010, please go to the BCPSEA website at <http://www.bcpsea.bc.ca/access/publications/aissue/2010/ai2010-03-Arb-RemedyCS-Comp.pdf>

Questions

Should you require assistance or wish to discuss this issue further, please contact your BCPSEA labour relations liaison.

Attachment