

## **BCPSEA and BCTF Agree to Grievance Resolution Process: Class Size and Composition — 2006-07 and 2007-08 School Years**

As reported in @issue No. 2010-03, dated January 11, 2010, representatives of the BCPSEA and the BC Teachers' Federation (BCTF) met this week to discuss how Arbitrator Dorsey's decisions on remedy (January 11, 2010), as well as Arbitrator Dorsey's original decision on class size and composition (August 2009), might be used to settle the remaining large number of class situations in dispute.

The parties have tonight agreed upon a process to resolve the remaining classes in dispute. Following is a summary of Dorsey's awards, the respective proposals of the BCTF and BCPSEA on remedy, and the parties' agreed-upon process to resolve the remaining disputes.

### **1. Arbitrator Dorsey's August 2009 award determined the violations:**

- 2006-07 and 2007-08: 1,622 classes in 157 schools in 18 districts
- Dorsey award: 81 classes in 7 districts
- Found 2 of the 81 inappropriate for student learning (2.5% of the classes arbitrated)
- Found 19 of the 81 in violation for procedural violations (10 classes — no opinion from principal by September 30; 7 classes — group consultation; 2 classes — no consultation with prep teacher).

### **2. Arbitrator Dorsey's January 2010 award set the remedy:**

- Can only be one remedy per class; i.e., if you have both a consultation violation and an "appropriate for student learning violation," there is only one remedy.
- No remedy to the union, only to the teacher
- No remedy when the amount is too insignificant
- Remedy can be reduced if mitigating circumstances
- BCTF was asking for \$193,621 in compensation/time for the 21 violations
- Dorsey instead awarded \$22,624 in time off for teachers
- If you take the 10 classes from SD No. 82 (Coast Mountains) out of the redress (no opinion from the principal), Dorsey awarded \$2,880 in time off for teachers.

### 3. Arbitrator Dorsey set four tiers of redress:

- Tier 1: 33 or lower = 2/3 of a day/month
- Tier 2: 34 – 36 = 1 day/month
- Tier 3: 37 – 39 = 1 and 1/3 day/month
- Tier 4: 40 or more = 1 and 2/3 days per month
  - No redress for the month of September
  - Pro-rate for classes less than ft for a year
  - Remedy in the form of time off unless the employee has already left the district

### 4. BCPSEA and BCTF met to:

- Agree to a process to resolve the remaining 1,541 classes that are still outstanding in the 2006-07 and 2007-08 grievances.

### 5. What was agreed to by the parties — procedure for resolution of outstanding class size grievances:

- Local parties sort each class that is still at issue into different categories of alleged violations.
- Categories that involved an interpretation, such as challenging the opinion of whether a class is appropriate for student learning or challenging the quality of a consultation, would not be addressed by the local parties but instead would be resolved by the four parties (local and provincial parties). These determinations would be without prejudice.
- Categories that did not involve an interpretation but instead the application of clear cut procedural errors (i.e., did consultation occur, was the 15 day time limit met, was there an opinion by September 30, etc.) would go first to the local parties for determination of whether a violation had occurred or not. These decisions would be on a without prejudice basis. Prior to the local parties meeting, the provincial parties would sign off on the procedural categories and interpretations to guide the local parties. Any outstanding grievances of this nature would then be forwarded to the provincial parties.

**It is important to note** that this agreement is for 2006-07 and 2007-08 and only applies to the 18 affected districts:

5 Southeast Kootenay, 8 Kootenay Lakes, 20 Kootenay-Columbia, 28 Quesnel, 36 Surrey, 39 Vancouver, 44 North Vancouver, 53 Okanagan Similkameen, 58 Nicola-Similkameen, 61 Greater Victoria, 62 Sooke, 63 Saanich, 67 Okanagan Skaha, 68 Nanaimo-Ladysmith, 69 Qualicum, 70 Alberni, 73 Kamloops/Thompson, 82 Coast Mountains.

Other districts had grievances for this period; this broader group of districts should not engage in any discussions with their locals regarding 2008-09 and 2009-10 class disputes as they relate to redress or in determining whether a violation occurred.

Attached is a copy of the *Grievance Resolution Process – Class Size – 2006-07 & 2007-08 School Years* as well as a copy of *Expedited Arbitration Process for Non-“Appendix D” Issues*. This agreement will be discussed at our upcoming annual general meeting January 22-23; in addition, BCPSEA will be arranging conference calls with the 18 affected school districts (as referenced above) tomorrow, January 21.

Attachments