

Arbitration Award: Professional Autonomy

Following nine days of arbitration, the BC Public School Employers' Association (BCPSEA) and the BC Teachers' Federation (BCTF) have today received Arbitrator Dorsey's award concerning the professional autonomy grievance of a grade three teacher disciplined for refusal to administer DART in School District No. 62 (Sooke).

At issue in this arbitration was the right of the district to discipline a teacher for refusing to follow a directive from her principal to administer a district-wide test (DART) and the right of the teacher to refuse such a directive on the grounds of her professional autonomy.

Background

What is DART?

- DART (District Assessment of Reading Test) is a performance-based assessment of learning administered to grades 3-9 students on a voluntary basis in the fall and on a required basis as an assessment for learning in the spring.
- DART was developed by BC teachers. Twenty-nine (29) districts throughout the province use DART and many districts use a similar program to assist in improving student literacy. The purpose of DART is to assist students to achieve their potential in the areas of reading and writing, and to assist teachers in designing student learning programs to increase the number of students meeting or exceeding grade level expectations.
- DART is not a standardized test. Students answer a series of open-ended prompts or questions based on a passage which they have read and which remains with them to look back and reread as they want. The passages all contain pictures. Teachers also interview each child and are encouraged to listen to each child read aloud a passage of the assessment. The intent is to monitor each student's independent application of the reading skills and processes which have been taught.

What is Professional Autonomy?

- Professional autonomy as it relates to the teaching profession is the exercise of judgment in the performance of teaching duties by teachers, subject to limitations that are set out in the collective agreement, in the *School Act* and Regulations, in employer directives and requirements, and in the reasonable standards of the profession. An employee does not have the authority or autonomy to simply refuse to perform lawful work as directed.
- There are a variety of clauses in local collective agreements but the standard clause states:

“Teachers shall, within the bounds of the prescribed curriculum, and consistent with effective educational practice, have individual professional autonomy in the planning and presentation of course materials in the classes of pupils to which they are assigned.”

The Award

The arbitrator dismissed all aspects of the BCTF grievance and made the following comments:

“A direction to administer the DART assessment does not direct how a teacher is to act or what a teacher is to do “within the bounds of the prescribed curriculum.” It does not tell teachers not to use a practice because it is not a “recognized effective educational practice.” It does not diminish the art and profession of teaching by telling teachers what they cannot do. It does not tell teachers they must use or rely on the DART assessment in their teaching, although they may choose to.

The direction to administer a DART assessment, in the context of the statutory scheme regulating public education and the Board of Education’s responsibilities and obligations under the accountability framework, is an assignment of duties the employer has the exclusive authority to make. It is not an infringement of the individual professional autonomy guaranteed in Article F3 of the collective agreement.

DART is designed to mirror and is to be administered as a normal classroom activity. If a student cannot do it on the day selected, the student can do it another day. Given the entire protocol for DART and the flexible window of time within which it can be administered, the assignment of this administrative duty to teachers was neither unfair nor unreasonable. There is no evidence of a circumstance that made it unfair or unreasonable for Ms Sihota to be directed to administer it in May and June 2007. The direction was clear and understood. It was an assessment within the area of the curriculum she was responsible to teach in her team teaching arrangement.

Whether or how the teacher chooses to use the DART assessment activity and its results in discharging the teacher’s responsibility is a matter within the teacher’s individual professional autonomy. The teacher can choose to embrace and integrate DART assessment into the planning, instructing, assessing and evaluating cycle or can choose to simply treat it as an additional administrative and bureaucratic burden.

I find the employer had the right, through the principal, to direct Ms Sihota to administer the DART assessment. The first grievance is dismissed.

Ms Sihota did not have the right to refuse the lawful direction to perform an administrative task as an exercise of her individual professional autonomy. This is not a situation that meets an exception to the principle obey now and grieve later. The employer had just and reasonable cause for discipline. The discipline imposed was not excessive in all of the circumstances. The second grievance is dismissed.”

A copy of the award can be accessed on the BCPSEA website at:

<http://www.bcpsea.bc.ca/access/publications/aissue/aissue.html>

Next Steps

We will follow up with a detailed summary of the award. We will also discuss the implications of the award with the BCTF in terms of other professional autonomy disputes which may be outstanding. Should you wish to discuss this issue further, please contact your BCPSEA labour relations liaison.