

Definition of Consultation Under the Class Size Regulations

During the conference calls on September 16 there was some discussion and request for further clarification with respect to the two day reference in the definition of consultation under the class size regulations.

Following is the advice we provided in *@issue* 2009-28 in the question and answer section:

10. When does the two day “consideration period” for the teacher begin?

Before providing their views of the proposed size and organization of the class at the consultation meeting, teachers should be provided with a minimum of two days to consider all of the relevant information provided by the principal.

20. Following the consultation meeting, is there a requirement to have a subsequent meeting or written communication with the teacher?

No. Although there is no requirement for any follow-up meeting or written communication (unless mutually agreed), arbitrator Dorsey indicated that the teacher must be informed by the principal, at a later date, when the process is over and what the outcome is.

21. Under Bill 33, after the consultation meeting has been completed, can a teacher provide additional views of the size and organization of the class to the principal?

As stated above, arbitrator Dorsey has indicated that the teacher is to be informed by the principal when the process is over and what the outcome is. Following the consultation, teachers are free to provide additional views with respect to the size and organization of the class as they see fit. Principals must consider the views provided by the teacher up to the point the process is completed and the teacher has been informed of the principal's decision. If the teacher provides additional views after the teacher has been informed by the principal that the process is over and what the outcome is, then there is no requirement under Bill 33 for the principal to change their decision or consider the additional views provided by the teacher.

The above advice has not changed. Following is additional clarification of the issues raised during the conference calls:

▪ Is the two day period of time two calendar days or two working days?

The two day period referred to in the class size regulations requires a minimum of two school days, not two calendar days; i.e., weekends do not count but professional days would.

- **When does the two days start?**

The two school day period would start once the teacher has received from the principal the package of information relevant to the size and organization of the class.

- **When should the consultation be scheduled?**

The consultation should be scheduled, at a minimum, two school days after the teacher has received the package of information relevant to the size and organization of the class.

- **Does the teacher receive an additional two school days following the consultation meeting to continue to provide the principal with their views on the size and organization of the class?**

No. The principal will be in a position to make their decision/proposal once the following has occurred:

- the teacher received the package of information relevant to the size and organization of the class as least two school days prior to the consultation
- the consultation meeting is scheduled at least two school days after the teacher has been provided the information relevant to the size and organization of the class
- there is two-way dialogue at the consultation meeting
- the teacher was provided an opportunity at the consultation meeting to provide their views to the principal on the size and organization of the class
- following the consultation meeting, the principal has considered the views of the teacher, if any have been provided.

Once the above has occurred, the principal is then in a position to make their final decision/proposal and inform the teacher of the decision and that the process has concluded. It is our recommendation that this decision and notice to the teacher should not occur at the consultation meeting, but there should be a reasonable period of time for the principal to consider the teacher's views, if any have been provided; i.e., later that day or the following day.

- **What happens if the teacher provides the principal with additional views of the size and organization of the class following the consultation meeting?**

As stated in number 21 above, after the consultation meeting has been completed, any additional views provided to the principal by the teacher on the size and organization of the class should be considered by the principal up to the point that the principal has made their final decision and informed the teacher. There is no requirement to consider any views provided by the teacher after the teacher has been informed of the decision and that the process has been completed.

- **Does the principal have to complete the consultation process within a 15 school day timeline?**

Under section 76.2 of the *Education (Learning Enhancement) Statutes Amendment Act* (Bill 33), the principal's obligations must be met within 15 school days after school commences. Those obligations are as follows:

76.2 In each school year, the principal of a school must, within 15 school days after the school opening day set out in the school calendar applicable to the school for the school year,

- (a) If applicable, obtain the consent of or consult with the teacher of a class as required by section 76.1(2.1)(b), (2.2)(b) or (2.3)(b),
 - (b) Consult with the school planning council with respect to the proposed organization of classes within that school for that school year, and
 - (c) Provide the superintendent of schools with a proposed organization of classes for the school for that school year that is, in the opinion of the principal, appropriate for student learning.
- **Is there a requirement to have a consultation meeting (face-to-face dialogue) under Bill 33 and the class size regulations?**

The definition of consultation under the class size regulations requires that after the teacher has received the relevant information from the principal on the size and organization of the class, the teacher be provided with the opportunity to provide their views to the principal on the size and organization of the class and the principal must consider these views prior to reaching their decision. Although the teacher must be given this opportunity to provide their views, the class size regulation does not specifically indicate how this should be done; i.e., there is no express reference in the definition of consultation under the class size regulations to actually meeting and engaging in face-to-face dialogue.

However, although not required, until further clarification is received it is recommended that districts continue to have a face-to-face meeting in order to receive the teacher's views (if any are provided) under the "consult" requirements of Bill 33.

Questions

If you have any questions, please contact your BCPSEA labour relations liaison.