

## New BCTF Foundation Skills Assessment (FSA) Pamphlet

Please find attached a copy of the new FSA pamphlet that the BCTF has recently produced. It is our understanding that the BCTF has made this pamphlet available on its website to all its local unions for their consideration for distribution to parents (either directly or through students as couriers).

It is recognized that respectful debate about methods of student assessment is important. In that regard, judicial and arbitral jurisprudence has clarified that teachers have the right to engage in political discussion and the freedom to express their views to parents on such educational issues under Section 2(b) of the *Charter*. Any restrictions on expression have to be justified under Section 1.

Accordingly, teachers' right to further the debate with parents must be valued, but it must also be balanced with society's interest in an effective and efficient school system which maintains the confidence of students, parents and the public. The new BCTF pamphlet or any other FSA and/or union/political material, to the extent that it is distributed in schools, must be considered within this context and, in particular, the guidance provided by Arbitrator Kinzie in his award dated May 2, 2008 in School District No. 5 (Southeast Kootenay). A summary of the principles that were established in consideration of the Kinzie, Munroe and Court of Appeal decisions can be found in BCPSEA @issue No. 2008-13 dated September 30, 2008, on our public website at <http://www.bcpsea.bc.ca/access/publications/aissue/2008/ai2008-13.pdf>.

Accordingly, we believe that the FSA pamphlets are to contain information that is accurate and not misleading. They should also be clearly marked to identify the author and/or organization from which they are emanating. Further, material distributed to parents through students should be placed in a sealed envelope and clearly marked/addressed to the parents/guardian. If teachers are considering the distribution of FSA materials and/or other union/political material on school property directly to parents or to parents through students as couriers, we believe that these documents should be discussed with the employer prior to any distribution for consideration and approval. This will avoid any issue between the parties about such material and is consistent with the guidance provided by Arbitrator Kinzie.

In light of these awards, we have reviewed the new BCTF pamphlet and have raised the following concerns with the BCTF:

- The pamphlet does not clearly identify that the author of the pamphlet is the local teachers' union and/or the BCTF.
- The statement, "The FSA is a test given over five days, requiring five full mornings" is misleading. A parent reading this pamphlet may be led to believe that this statement refers to each child being expected to participate in the FSA for five full mornings when, in fact, the FSA is estimated to take approximately 4.5 hours plus break times for each child.
- The statement, "It started as a random sample evaluation of the system but became province-wide" is not accurate. We understand that the FSA has never been based on a random sample. Our understanding is that since its inception in 1999, the FSA has been census based.

- Depending on the individual district, the statement, “No additional resources are ever given to schools identified as needing assistance” may be inaccurate. This statement would have to be reviewed by each district.

Please note that in specifying the above concerns, we are not agreeing that there should be this type of pamphlet, but if there is to be a pamphlet, in our view it should meet the criteria set out above.

In light of this new BCTF pamphlet and possible distribution of this and other union FSA materials by teachers on school property which may occur in your district leading up to the FSA in February, we have drafted the following letter for your consideration:

### **To Your Local President**

We understand that the BCTF has provided you with a new FSA pamphlet for your consideration for distribution by teacher to parents (copy attached). It is recognized that respectful debate about methods of student assessment is important. In that regard, judicial and arbitral jurisprudence has clarified that teachers have the right to engage in political discussion and the freedom to express their views to parents on such educational issues under Section 2(b) of the *Charter of Rights and Freedoms*. Any restrictions on expression have to be justified under Section 1.

Accordingly, teachers' right to further the debate with parents must be valued, but it must also be balanced with society's interest in an effective and efficient school system which maintains the confidence of students, parents and the public. The new BCTF pamphlet or any other FSA and/or union/political information, to the extent that it is distributed in schools, must be considered within this context and, in particular, the guidance provided by Arbitrator Kinzie in his award dated May 2, 2008 in School District No. 5 (Southeast Kootenay).

If teachers are considering the distribution of this new BCTF FSA pamphlet, other FSA materials and/or other union/political material on school property directly to parents or to parents through students as couriers, we believe these documents should be discussed with the employer prior to any distribution for consideration and approval. This will avoid any issue between the parties about such material and is consistent with the guidance provided by Arbitrator Kinzie.

In that regard, we believe that the material distributed to parents should be accurate and not misleading. It should also be clearly marked to identify the author and/or organization from which it is emanating. Further, should the material be distributed to parents through students, this material should be placed in a sealed envelope and clearly marked/addressed to the parents/guardian. Should employer believe the material to be inappropriate for distribution to parents (directly or through students as couriers), the employer would raise the matter and its concerns with the local union in accordance with the Kinzie award.

If you are considering distribution of the new BCTF FSA pamphlet as attached, we have reviewed it and do not believe that it is appropriate for distribution without revision:

- The pamphlet does not clearly identify that the author of the pamphlet is the local teachers' union and/or the BCTF.
- The statement, “The FSA is a test given over five days, requiring five full mornings” is misleading. A parent reading this pamphlet may be led to believe that this statement refers

to each child being expected to participate in the FSA for five full mornings when, in fact, the FSA is estimated to take approximately 4.5 hours plus break times for each child.

- The statement, “It started as a random sample evaluation of the system but became province-wide” is not accurate. We understand that the FSA has never been based on a random sample. Our understanding is that since its inception in 1999, the FSA has been census based.
- **(Please note: The following may or may not be applicable to your district; i.e., if your district has provided additional resources to schools identified as needing assistance then you would include the following in your letter to your local union):** Your statement that, “No additional resources are ever given to schools identified as needing assistance” is not accurate. Our district has...

Please note that in specifying the above concerns, we are not agreeing that there should be this type of pamphlet, but if there is to be a pamphlet, in our view it should meet the criteria set out above.

In order to attempt to reduce any misunderstandings or unnecessary confusion in our district’s schools on this matter, you are encouraged to set up a meeting with me in advance to discuss the content and approval of any FSA and/or other union/political information that teachers are considering distributing to parents or through students as couriers to parents on school property.

I look forward to working with you in a respectful and professional manner on this very difficult matter.

## Questions

Each case will have to be assessed on its individual merits. Should you encounter the issue of distribution of FSA and/or other union/political by teachers to parents, please contact your BCPSEA labour relations liaison for discussion.

Attachment: BCTF FSA pamphlet