

## **Foundation Skills Assessment (FSA): Kinzie Arbitration Award – Students as Couriers**

Arbitrator John Kinzie released an arbitration award on May 2, 2008, concerning what has become known as the *Students as Couriers* case. The matter at issue was the BC Teachers' Federation (BCTF) grievance over the decision of a school district not to permit teachers to send home with students a BCTF pamphlet opposing the use of the FSA tests in schools. The teachers proposed to send that pamphlet home in a sealed envelope addressed to parents.

In his reasons, the arbitrator concluded that schools have the right to control what information is sent home to parents from the school. He agreed that the BCTF pamphlet, titled "FSA testing can be harmful to students!" was "confusing and does not provide parents the whole story."

However, the arbitrator determined that rather than instituting "an absolute ban" on teachers from sending home information with students, the Board of Education should have instead addressed concerns with the union about the accuracy and confusing nature of the pamphlet. If the union refused to correct the inaccuracies, then the Board would have been justified in restricting its teachers from sending the pamphlet home with students. As this process did not occur, the arbitrator ruled that the absolute ban on sending this pamphlet out to parents through students was not a reasonable limit demonstrably justified in a free and democratic society under section 1 of the *Charter of Rights and Freedoms*.

While we understand that at this early date one teachers' local has characterized the award as an acceptance of the BCTF position in its entirety; i.e., granting teachers an unlimited right to send BCTF and related material home with students, it is important to recognize that this award does not provide a teacher the right to send any information home through students to parents. The award places a restriction on the subject matter of the material that can be sent, requires it to be accurate, and retains a process for employer control of what information is sent home.

BCPSEA continues to review the award and consider its options. Further information will be provided to districts shortly.

### **Questions**

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