

Report *from the Chair*

BRITISH COLUMBIA PUBLIC SCHOOL EMPLOYERS' ASSOCIATION

No. 2009-03 September 18, 2009

By E-mail: 3 Pages

Welcome to a new school year! In the public school sector, our "new year" marks the beginning of fresh opportunities and unquestionable challenges.

As the school year commences, we find ourselves faced with challenges on many fronts, including some intense economic challenges. Like all of you, BCPSEA has had to critically examine and effect changes to the allocation of resources. We remain committed to providing districts with accessible, responsive and supportive assistance with your human resource/labour relations issues.

BCTF Class Size and Composition Grievances

There were some key developments over the summer on the labour relations front. Following 54 days of arbitration, on August 21, arbitrator James Dorsey provided BCPSEA and the BC Teachers' Federation (BCTF) with his 354 page award concerning class size and composition grievances for the 2006-2007 and 2007-2008 school years.

Of the 157 schools identified in the BCTF grievances, representing 1,622 classes, the parties agreed to arbitrate 81 classes that were grieved in seven representative schools in school districts 5 (Southeast Kootenay), 36 (Surrey), 39 (Vancouver), 58 (Nicola-Similkameen), 63 (Saanich), 69 (Qualicum) and 82 (Coast Mountains).

Arbitrator Dorsey found that 69 of the 81 classes that had been grieved had met the requirement of the principal and the superintendent holding the opinion that the classes were appropriate for student learning and that 67 of the 81 classes that had been grieved had met the consultation requirement under Bill 33.

While the arbitrator found 21 of the classes to be in violation of the *School Act*, he found only two of the 81 classes — or 2.5% — to be inappropriate for student learning due to their size or number of designated special needs students. It's also important to remember that these are by no means the total number of classes in the seven representative schools addressed by Arbitrator Dorsey, but these 81 classes, a sample only, were all grieved by the BCTF as being inappropriate for student learning.

Although this arbitration proceeding was costly from both a financial and resources perspective, it was, for the most part, extremely positive for school districts. On the whole, it confirmed the appropriateness of the actions of board of education officials with respect to consultation as contemplated in the *Education (Learning Enhancement) Statutes Amendment Act* (Bill 33) and established jurisprudence that will make it difficult for future arbitrators to actually inject themselves in educational decisions.

Arbitrator Dorsey issued a further award on September 11, 2009 to address the following question:

“Under the Class Size Regulation definition of “consult” in section 1(4), does providing a teacher with access to the relevant documents meet the requirement of the Regulation or is it required that hard copies be provided to teachers?”

For the purposes of this section, principals are required to provide teachers with hard copies or alternately, directing and providing teachers with electronic access to the information which the principal deems to be relevant to the proposal for the size and organization of the class.

Arbitrator Dorsey indicated that it is the principal's responsibility to determine what information is relevant. However, Arbitrator Dorsey ruled that the relevant documents would include:

1. The class list with the identification of students with an IEP
2. Copy of the most recent IEP if it has not already been distributed to the teacher earlier in the current school year
3. Any other documents that the principal deems to be relevant to his/her proposal for the size and organization of the class.

We have distributed a series of @issue bulletins to districts on these awards and their effect. All of the bulletins, as well as the awards, can be found on the BCPSEA website at <http://www.bcpsea.bc.ca/access/publications/aissue/aissue.html>,

The “All Schools, All Classes” Grievances

- Outstanding grievances 2008-2009: The BCTF has advanced a high volume of grievances to arbitration for this year (14,000). As is the case for past years, the outcome of these matters is largely dependent on the extent to which the BCTF is prepared to negotiate based on the recently articulated arbitral principles. Much of this will be determined by any decision rendered regarding remedy.
- Outstanding grievances 2009-2010: The BCTF has again filed an anticipatory grievance provincially to cover all classes over 30 or with more than three IEPs that will exist effective September 2009. These grievances will require a provincial grievance and will likely lead to further arbitration.

There are currently 12 days set aside with Arbitrator Dorsey between now and December to address the 2008-2009 grievances. These dates were set at the request of the BCTF to deal with the 2008-2009 grievance. BCPSEA and the BCTF are currently discussing the use of those days to deal with the remedy and outstanding issues for the 2006-2007 and 2007-2008 school years.

Infrastructure Resources

We also begin the year with some key infrastructure resources in place that will be helpful in managing labour market challenges. It's important to note that these infrastructure initiatives were developed in contemplation of a shifted focus, given the 2010/2011 bargaining timelines. Fortunately, in a time of economic challenges, these resources can be employed in a very cost-effective way.

▪ Learning Opportunities

Our goal is to foster human resources/labour relations excellence in the K-12 sector by developing and delivering innovative, accessible, high quality learning opportunities to meet each district's needs. Each training session is developed using subject matter experts and trained adult educators. A focus group representing a variety of district positions and diverse areas of the province is assembled to provide input on curriculum and delivery methods.

Please check the Events section of the BCPSEA website at <http://www.bcpsea.bc.ca/access/events/events.html> for course information, including dates, times, and locations.

- **Education Data and Analysis Systems (EDAS)**

The first data cycle collection has been completed. A comprehensive Quality Assurance testing process is being conducted on the Q4 data submissions. We will then compare the EDAS collection against the Ministry of Education's 2003 data form. The process will help to ensure the accuracy of the data as well as highlight issues to investigate, discuss and resolve with districts and vendors. EDAS has emerged as an extremely promising resource and we are confident we will be able to utilize the data for MoE funding and reporting for September 2010.

- **Make a Future – Careers in BC Education**

Make a Future continues to assist districts with their recruitment, selection, and retention challenges, ensuring that districts throughout the province have access to the tools, support, and technology to make efficient and effective decisions. This work is especially important when focused on difficult to fill positions such as SLPs, education assistants and other specialty positions. Make a Future works with and on behalf of districts to conduct research, network with relevant organizations, and source candidates in order to save time and money.

To access the list of services available, click on the following link:

[http://www.makeafuture.ca/fileadmin/PDF_s/MAF - Handout_2_.pdf](http://www.makeafuture.ca/fileadmin/PDF_s/MAF_-_Handout_2_.pdf) or contact Make a Future at contactus@makeafuture.ca.

Symposium 2009

Bargaining preparation will be a topic of discussion at our upcoming



scheduled for October 29-30, 2009 at the Four Seasons Hotel in Vancouver. For more information and to register, visit the BCPSEA website at <http://www.bcpsea.bc.ca/access/events/labourrelations.html>.

Keep in Touch

We encourage trustees to contact any member of the Board of Directors with your questions, concerns, and comments. The Board and staff contact information can be found under "Contact Us" on the BCPSEA website (www.bcpsea.bc.ca).

A handwritten signature in black ink, appearing to read 'Ron Christensen', is written over a light blue horizontal line.

Ron Christensen, Chair