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By E-mail: One Page plus attachment

Arbitrator Jackson Issues Decision on Bargaining Process Dispute

As outlined in *Teacher Bargaining Bulletin* No. [2011-10](#) dated August 16, BCPSEA and the BC Teachers' Federation (BCTF) reached an Agreement in Principle — arising from the dispute between the parties on the provincial–local split of issues — to refer five foundation questions to a mutually agreed-upon arbitrator:

- What is the authority of the parties to delegate provincial matters to local tables?
- If a party has the authority to delegate provincial matters to the local level, can those matters then be referred to the provincial table when impasse is reached at the local level?
- If a party has the authority to delegate provincial matters and those matters can then be referred to the provincial table when impasse is reached at the local level, would section 59 of the *Labour Relations Code* requirements be met without discussion of these referred matters at the provincial table?
- What are the cost items defined by the *Public Education Labour Relations Act*?
- Are there any restrictions on the ability of the parties to negotiate a re-designation of the provincial–local split of issues as agreed to by the parties in Letter of Understanding No. 1, including whether the split of issues can be brought to impasse?

This evening, BCPSEA and the BCTF received the decision (attached) of arbitrator Marguerite Jackson. We are currently reviewing the decision and considering the implications but the result, on its face, appears positive. Of note, Arbitrator Jackson determined that:

- Neither party has the authority to unilaterally delegate provincial matters to local tables.
- If any of those matters — currently identified as provincial matters in Letter of Understanding (LOU) No. 1 — being raised or discussed at the local tables are key issues with respect to the overall bargaining agenda of the BCTF, those matters should be raised at the provincial table to ensure compliance with section 59 of the *Labour Relations Code*.
- The test of whether a provision is deemed to be provincial is two-fold. First, does the provision relate to, for example, salaries? Second, does the provision affect the cost of the collective agreement? If the answer to both questions is “yes,” then the provision is one that is deemed to be provincial.
- LOU No.1 is not an independent protocol agreement but is part of the collective agreement. The content of LOU No. 1 can be bargained to impasse.

In keeping with the agreement of the parties, the arbitrator has also made herself available to assist the parties with the implementation of the agreement. BCPSEA intends to meet with the BCTF on Tuesday, August 30 to begin discussions regarding implementation and rectification. If needed, BCPSEA will seek the assistance of the arbitrator on Wednesday, August 31.

We will provide further updates as matters develop.