

Exempt Staff Compensation Administration: Clarifying the Operating Environment

As reported in *Exempt Staff Issues* bulletin No. 2008-04, dated April 17, 2008, the government has introduced amendments to the *Public Sector Employers Act* (contained in Bill 33, Miscellaneous Statutes Amendment Act, 2008) that will affect compensation administration in the K-12 public education sector (see Appendix attached). The purpose of this bulletin is to outline the effect of the changes contemplated by the legislation and to clarify the context within which compensation for all exempt positions is administered. Please keep in mind that the information contained in this bulletin is preliminary, given that the legislation has not yet been enacted.

1. Executive Compensation Administration

- **The current system**

The BCPSEA sectoral exempt compensation management plan (Policy 95-06, *Compensation and Employment Standards for School District Employees Not Subject to a Collective Agreement*) is approved by the Minister of Finance under the *Public Sector Employers Act*.

Among other provisions (see *Exempt Staff Compensation Administration* on page 3), the sectoral plan currently contains salary ranges, based on bands of district student full time equivalent enrolment, for the executive positions of Superintendent of Schools and Secretary Treasurer. BCPSEA is required to review and approve salary adjustments for these two positions within the context of the respective salary ranges. Adjustments to other elements of the executive compensation package also require BCPSEA review and approval.

- **Effect of the proposed changes**

The legislation contemplates changes to:

- the responsibility for determination of Superintendent compensation, and
- the public disclosure system for senior employees.

The proposed amendments contemplate that the position of Superintendent of Schools will be treated the same as CEOs in the public sector for public compensation disclosure purposes, and approval of their compensation package will therefore be the responsibility of the board of education.

Once the legislation is enacted, the position of Superintendent will be removed from the sectoral exempt staff compensation administration regime; i.e., the salary ranges as contained in Policy 95-06 will no longer apply to the position of Superintendent and the

review and approval by BCPSEA of compensation adjustments for that specific position will no longer be required.

Since the early 1990s, school districts have been required to have an articulated compensation approach and structure for their executive and exempt staff. These compensation structures have been based on comparative compensation data and are reflective of a logical internal hierarchy.

Although the proposed legislative amendments will remove the position of Superintendent from the sectoral compensation administration regime, it is important to note that the amendments do not alter the need for boards, like other employers, to follow proper human resources practices with respect to executive and exempt staff compensation. The board should develop/maintain a comprehensive exempt staff compensation approach and structure, which is grounded in relevant labour market data and links all exempt positions — including the Superintendent position — to the structure.

With respect to the enhanced disclosure requirements, these were described in the Ministry of Finance news release accompanying introduction of the legislation:

The changes will help bring public sector compensation reporting to best practice standards and provide the public with far more detail on the underlying compensation philosophy of an organization and how that compensation relates to performance...

The amendments will allow the government to require public sector organizations to proactively disclose the major elements of compensation, including base salary, benefits, employer pension contributions, and performance payments. The enhanced disclosure requirements will apply to chief executive officers and the next four highest paid executives, where these positions hold an annual base salary of \$125,000 or more.

It should be noted that where the Superintendent does not earn an annual salary of \$125,000 or more, there will still be a requirement to file a disclosure report for that position.

A comprehensive form will be required to be completed by the district on an ongoing basis, and the employment contract and compensation information must be available on a publicly accessible website. More information on these disclosure requirements will be provided once the legislation has passed.

2. Exempt Staff Compensation Administration

- **The current system**

Under the sectoral exempt staff compensation management plan, proposed adjustments to any element of the compensation package for all other exempt positions, including other management and administrative staff, and principals/vice principals, must be submitted by the board to BCPSEA for review and approval prior to implementation.

- **Effect of the proposed changes**

As the current salary range scheme as it relates to the executive positions of Superintendent and Secretary Treasurer will no longer exist with the passage of the legislation, compensation for the position of Secretary Treasurer will be considered by BCPSEA in the same manner as it is currently with other exempt positions — in the context of relevant labour market data and the district's overall exempt staff compensation structure.

3. Roles, Responsibilities, and Resources

- **Board of Education**

The Board of Education is responsible to develop and maintain an articulated compensation approach and structure for executive and exempt staff in the district reflective of the organization's philosophy, external relevant labour market data, and internal hierarchy. The structure should be administered on an ongoing basis and clearly communicated to all staff.

When the legislation is passed, the Board will be responsible to approve any adjustments to the compensation package for the position of Superintendent of Schools. The Board will also be responsible to submit any proposed compensation adjustments for any other exempt position, including Secretary Treasurer, other management and administrative staff, and principals/vice principals, to BCPSEA for review and approval.

In addition, the Board will be responsible to ensure compliance with the compensation and contract disclosure requirements under the amended legislation.

- **BCPSEA**

Subject to enactment of the legislation and consideration by the BCPSEA Board of Directors, BCPSEA will proceed to amend the sectoral exempt compensation management plan (Policy 95-06) to reflect the changes discussed above and the revised compensation administration environment.

BCPSEA will continue to provide advice and assistance (including relevant data) to boards on compensation matters for all executive and exempt positions.

4. Next Steps

BCPSEA will await passage of the legislation and provide any further clarification arising out of the legislative process.

If you have any questions on this or any other exempt staff compensation matter, please contact Deborah Stewart, Senior Human Resources Consultant, at 604.730.4506 or deborahs@bcpsea.bc.ca.

Attachment: Proposed amendments to the *Public Sector Employers Act*

Appendix: The Legislative Amendments

The following table contains the current provisions of the *Public Sector Employers Act* and the proposed amendments:

Current	Proposed
<p>14.3 (1) The minister may direct an employers' association or a public sector employer to prepare</p> <p>(a) one or more compensation plans respecting compensation that will be provided to</p> <p>(i) employees in the sector or within the employ of the public sector employer, or</p> <p>(ii) persons employed by the employers' association and who are not subject to a collective agreement, and</p> <p>(b) a report in respect of each compensation plan required under paragraph (a) describing, in accordance with the minister's directions,</p> <p>(i) the methodology used in devising the plan, and</p> <p>(ii) how the employers' association or public sector employer intends to implement and monitor the compensation plan.</p> <p>(2) The minister may do one or more of the following for the purposes of a direction issued under subsection (1):</p> <p>(a) make the direction specific to one or more employees or persons referred to in subsection (1) (a) and, for this purpose, may specify a position or an occupation or categories of positions or occupations;</p> <p>(b) prescribe information that must be included in a compensation plan;</p> <p>(c) without limiting paragraph (b), require that the employers' association or public sector employer include in the plan</p> <p>(i) a detailed description of the nature, amount and range of compensation that will be provided to the employees or persons in respect of whom the plan applies, and</p> <p>(ii) any other information the minister considers appropriate;</p> <p>(d) prescribe information that must be included in a report referred to in subsection (1) (b);</p> <p>(e) without limiting paragraph (d), require that the employers' association or public sector employer include in the report</p> <p>(i) comparisons of actual compensation provided to persons employed in the same or a similar sector, position or occupation, whether those persons are employed in the public sector or the private sector, as considered appropriate by the minister, and</p> <p>(ii) any other information the minister considers appropriate;</p> <p>(f) specify the form and manner in which a compensation plan and the report in respect of it</p>	<p>Section 14.3 of the Public Sector Employers Act, R.S.B.C. 1996, c. 384, is amended by adding the following subsection:</p> <p>(7) This section does not apply in respect of compensation that will be provided to a directeur général or superintendent who is appointed under the <i>School Act</i> by a francophone education authority or board of education, as the case may be.</p>

Current	Proposed
<p>are to be prepared and submitted for review by the minister.</p> <p>(3) The minister may issue different directions under subsection (1) for different employers' associations, public sector employers, public sector employees or persons referred to in paragraph (a) of that subsection.</p> <p>(4) If directed to prepare a compensation plan and report under this section, the employers' association or public sector employer in respect of whom the direction is issued must, in accordance with the minister's direction,</p> <p>(a) prepare the plan and report, and (b) submit them for review by the minister.</p> <p>(5) If, following a review of a compensation plan, the plan is approved by the minister, that compensation plan is adopted as an employment compensation standard on that approval.</p> <p>(6) On the minister issuing a direction to an employers' association or a public sector employer under subsection (1), no increase in compensation may be provided to employees or persons in positions or occupations in respect of which the direction is issued unless</p> <p>(a) a compensation plan in respect of those employees or persons is approved by the minister and the increase in compensation is consistent with the applicable employment compensation standard resulting from the operation of subsection (5),</p> <p>(b) the increase in compensation was agreed to before the date on which the minister issues the direction and the increase in compensation is consistent with the applicable employment compensation standard, if any, that was in force and effect before the issuance of the direction,</p> <p>(c) the increase is the result of a change in an employee's or person's position within a range of positions that was established for the sector, employee or person before the issuance of the direction, or</p> <p>(d) the increase is within a range of compensation that was established for the employee's or person's position before the issuance of the direction.</p>	
<p>Contracts of employment are public documents</p> <p>14.8 (1) A provision of a contract of employment that all or part of the contract is to remain confidential is void.</p> <p>(2) Each senior employee's contract of employment is deemed to include a provision that the contract is a public document and the public sector employer must make the contract, together</p>	<p><i>Section 14.8 (3) is repealed and the following substituted:</i></p> <p>(3) A public sector employer must, by both of the following means, make available to the public all information in contracts of employment and reports referred to in subsection (2) that would otherwise be available to an applicant making a request under the <i>Freedom of Information and Protection of Privacy Act</i>:</p>

Current	Proposed
<p>with any report filed with the chief executive officer of the council in relation to it, available for public inspection in accordance with this section.</p> <p>(3) A public sector employer must make available for public inspection during normal business hours information in contracts of employment and reports referred to in subsection (2) that would otherwise be available to an applicant making a request under the Freedom of Information and Protection of Privacy Act.</p>	<p>(a) posting the information on a publicly accessible website maintained by or on behalf of the public sector employer;</p> <p>(b) having the information available for public inspection in the office of the public sector employer during regular office hours.</p> <p>(4) Information must be posted and made available under subsection (3) in the form and manner and at such times required by the chief executive officer of the council.</p> <p>(5) The chief executive officer of the council may do any of the following:</p> <p>(a) prepare a report respecting senior employee compensation information reported under subsection (3) (a) and (b);</p> <p>(b) make the report available to the public by one or both of the following means:</p> <p>(i) posting the report on a publicly accessible website maintained by or on behalf of the chief executive officer;</p> <p>(ii) having the information available for public inspection in the office of the chief executive officer during regular office hours.</p>