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**Support Staff Collective Bargaining in
BC's K-12 Public Education Sector:
Is There a Case for Structural Change?**

Resource/Discussion Paper

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Support Staff Collective Bargaining in BC's K-12 Public Education Sector: Is There a Case for Structural Change?

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Unfortunately, although policy makers have legislated changes in collective bargaining structure, and labour relations practitioners are painfully aware of the implications of different bargaining structures, very little is actually known about the forces that influence the choice of alternative structures or about the consequences for the relative bargaining power of the parties, the level of industrial conflict, or the functioning of the bargaining process.

John C. Anderson, *The Structure of Collective Bargaining*, 1989.

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**Support Staff Collective Bargaining in BC's
K-12 Public Education Sector**

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Executive Summary

This paper addresses the question of whether there is a case for a change to the structure of support staff collective bargaining in BC's K-12 public education sector.

In April 2000, in response to support staff labour disputes in 44 of BC's 60 public school districts (37 on strike and another 7 with collective agreements that had expired), the provincial government passed the *Public Education Support Staff Collective Bargaining Assistance Act*. The Act brought an end to job action and prohibited job action in the 44 districts. The Act provided for an Industrial Inquiry Commission (IIC #2), to determine support staff collective agreements in those districts.

The Act also provided for another Industrial Inquiry Commission (IIC #3) to study and make recommendations to government on the structure and operation of support staff collective bargaining. This commission, headed by Vince Ready (mediator/ arbitrator) and Irene Holden (Acting Labour Relations Board Associate Chair - Mediation), received written and oral submissions from a variety of unions in the sector, school boards, and from the British Columbia Public School Employers' Association (BCPSEA) representing sector employers. This paper is based on BCPSEA's submission to the commission.

In September 1995, the Labour Relations Board issued an accreditation order under both the *Labour Relations Code* and the *Public Education Labour Relations Act*. Following questions as to whether the accreditation order also covered support staff, in July 1998, the *Public Education Labour Relations Act* was amended to affirm BCPSEA's accreditation status relating to support staff.

The only practical change in the bargaining structure from the previous decade was the requirement, since 1994, that agreements negotiated by school boards be ratified by BCPSEA. However, the ratification criterion was limited to meeting the compensation guidelines and mandates established by the Public Sector Employers' Council (PSEC).

In October 1998, PSEC's 36-month Mandate II provided for a 0% increase in the first two years, with 2% in the third year (referred to as 0, 0, 2). Public sector negotiations during this period had an additional process —

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the Public Sector Accord initiative. The Public Sector Accord process was a provincial initiative to encourage public sector unions to accept the compensation mandate of 0, 0, 2. The Accord process was a parallel process to collective bargaining affecting all parts of the public sector focused on public policy initiatives that would have the effect of encouraging contract settlements.

In December 1999, representatives of CUPE BC and government approached BCPSEA looking to establish a voluntary provincial bargaining structure on a narrow agenda — wages, term, pay equity and benefits. The Public Sector Employers' Council Secretariat had suggested that to access the Accord matters referred to as the *plus* in '0, 0, 2 plus', a common table was needed. CUPE consequently formed a Sectoral Bargaining Committee to conduct negotiations. The initiative, however, was rejected by 87% of the total school board votes cast at BCPSEA's Representative Council.

Following the rejection by school boards, the provincial government and CUPE then began private discussions on enacting legislation to implement provincial bargaining. However, despite assurances to the union, no legislation was ever introduced. To that time, CUPE's bargaining strategy had been based on the assumption that there would be a provincial table for negotiating what they had termed their common issues.

The 1999-2000 school year began with an ever increasing number of negotiations starting, and a common set of demands appearing at most of those tables. The Public Sector Accord process was also initiated under the direction of the province's Chief Accord Negotiator. The Accord process confused an already complex set of negotiations. The blurring of the distinction between Accord matters and collective bargaining matters plagued the discussions. The Accord process, which was intended to examine public policy matters in a problem solving framework, became another bargaining forum within the context of either strike deadlines, strikes or pending legislation. Bargaining disputes ultimately arose in 32 of the province's school districts with the expectation that job action would spread to another 12. But this school year was an exception — the sector had a long history of industrial stability. With 77 union locals and 60 districts, there had been relatively few strikes and school days lost in the previous 10 years.

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BCPSEA asserted to the commission, and continues to believe, that the “problem with support staff collective bargaining” was not a structural problem, but rather arose because of an exceptional set of circumstances.

The structure of collective bargaining is one of the most important factors shaping the processes and outcomes of bargaining. Centralization of bargaining structures is often viewed as a solution to any of the ills associated with public sector collective bargaining. Moving from a decentralized model to one of greater centralization, however, requires an assessment of the anticipated changes to relative bargaining power, the resulting level of industrial conflict, the ability to represent constituent interests and the overall functioning of the bargaining process. Given the support staff bargaining history and recent experiences, the goal must be to develop a bargaining structure that will lead to meaningful collective bargaining and improved bargaining outcomes both in terms of process, how we bargain, and substance — the results of bargaining.

An evaluation of the bargaining structure would be valuable in advance of the next rounds of support staff bargaining, and this paper outlines several different options with the advantages and disadvantages of each. Before any structural change is contemplated, more discussions are needed between the parties.

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Part One – Introduction

“Unfortunately, although policy makers have legislated changes in collective bargaining structure, and labour relations practitioners are painfully aware of the implications of different bargaining structures, very little is actually known about the forces that influence the choice of alternative structures or about the consequences for the relative bargaining power of the parties, the level of industrial conflict, or the functioning of the bargaining process.” - J.C. Anderson, *The Structure of Collective Bargaining*, 1989.

Is there a case for structural change in support staff collective bargaining in the BC K-12 public education sector? Did the support staff bargaining structure contribute to the labour disputes in March 2000, and should the structure be changed to ensure that public education is not affected by the consequences of an unworkable bargaining structure?

The period from December 1998 to April 2001 remains a crucial turning point in labour relations and collective bargaining in the K-12 sector. Given the political climate, the bargaining environment at the time, and 37 strikes it is not likely that this set of circumstances will be repeated. These events, however, have established the basis for a review of the current bargaining structures and bargaining relationships.

The tone and dynamics of these negotiations and subsequent dispute resolution process, however, will have a ‘spill over’ impact on the ongoing relationships, both locally and provincially, during the term of the collective agreement. It will also have an effect on the next rounds of bargaining.

Left unexamined and these questions unanswered, the next rounds of support staff bargaining may be impaired by both substantive and procedural issues concerning the bargaining structure. It is therefore necessary to understand what led to the disputes and assess whether structural, policy, or operational changes are needed.

Public Education Support Staff Collective Bargaining Assistance Act

On April 2, 2000, the provincial government introduced and passed the *Public Education Support Staff Collective Bargaining Assistance Act* (Appendix

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G) in response to support staff labour disputes in 44 of BC's 60 public school districts. The Act's three parts provided for three distinct processes:

Part 1 - Continuation of Support Staff Services brought an end to job action and prohibited strikes in 44 districts named in the Act (the 37 that were on strike and another 7 whose collective agreements had expired). This part of the Act provided for an Industrial Inquiry Commission (which later became known as IIC #2) with the power to determine support staff collective agreements in those districts. Part 1 also contained a provision empowering the government to add school boards and local unions to the schedule of boards and local unions that would have their support staff collective agreements determined by the commission. Part 1 was subject to repeal pursuant to Part 3.

Part 2 - Framework for Support Staff Collective Bargaining established another Industrial Inquiry Commission (later known as IIC #3) to study and make recommendations to government concerning the structure and operation of support staff collective bargaining.

Part 3 - Miscellaneous contained provision for the automatic repeal of Part 1 on July 31, 2000, unless extended by government regulation before that date. Part 2 would continue in force. Part 1 was not continued past July 31, 2000.

Industrial Inquiry Commission (IIC #3)

On May 19, 2000, Industrial Inquiry Commissioners Vince Ready and Irene Holden advised all BC Public School Employers' Association member school boards and all affected unions in the K-12 sector of the process the Industrial Inquiry Commission intended to follow in order to discharge its responsibilities under Section 10 of the *Public Education Support Staff Collective Bargaining Assistance Act*:

- 10 (1) The Minister of Labour may appoint a commissioner to do the following:
 - (a) inquire into the structures, practices and procedures for support staff collective bargaining;
 - (b) make recommendations, after taking into consideration the factors mentioned in subsection (2), with a view to improving those structures, practices and procedures;

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- (c) report the recommendations to the Minister of Labour within the time set by that minister.

Section 10 (2) of the *Act* outlined the factors the commission may consider when making its recommendations.

- 10 (2) The commissioner may consider the following:
 - (a) the public interest in stable industrial relations in the public school system and in a bargaining environment that reduces the potential for disruptions in education;
 - (b) the need for effective structures, practices and procedures for support staff collective bargaining and the views of the employers' association, the school boards and support staff unions on how to achieve this;
 - (c) the role, responsibility and effectiveness of the employers' association in support staff collective bargaining, including any matter concerning the constitution, bylaws, rules, policies or procedures of the employers' association;
 - (d) the role, responsibility and effectiveness of support staff unions in support staff collective bargaining;
 - (e) the history and pattern of union representation of support staff employees of school boards;
 - (f) any other factor that the commissioner considers relevant or that the Minister of Labour may direct.

In the instructions issued May 16, 2000, the commission asked for written submissions on the following:

- I. the current bargaining structure for support staff within the K-12 education sector
- II. your present responsibilities within that structure
- III. the effectiveness of the current structure
- IV. any proposals for change to the structure and the reasons for your proposed changes
- V. any other submissions you would like to make relative to Section 10 of the *Act*.

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Submissions

As well as the BCPSEA submission, 41 school boards chose to make individual written submissions, which were included with the BCPSEA submission. School District No. 36 (Surrey) chose to make its submission directly to the commission. Some of these submissions are referenced in this paper.

The commission invited oral submissions in support of the written submissions on July 5. The International Union of Operating Engineers and six school boards made oral submissions. Because CUPE BC had yet to make its written submission, CUPE BC and BCPSEA were scheduled to make oral submissions in the Fall of 2000. Those groups that had made oral submissions in July were invited to make further submissions in light of the subsequent submissions made by CUPE BC, various union locals and BCPSEA.

On October 5 the commission reconvened to hear the balance of the oral submissions. Prior to the hearing, eleven CUPE locals made written submissions. Nine Lower Mainland locals Vancouver Locals 15 and 407, Burnaby Local 379, North Vancouver Local 389, New Westminster Local 409, Coquitlam Local 561, Richmond Local 716, Surrey Local 728, Delta Local 1091 along with CUPE Local 801 Sunshine Coast, and CUPE Local 211 Vancouver Island North, advocated maintaining the local union-school board bargaining structure. CUPE BC advocated a provincial bargaining structure indicating 40 CUPE locals supported such a model. Part Six of this paper summarizes the submissions made by all of the unions in the sector.

The Minister of Labour had initially set a deadline of August 31, 2000, for IIC #3, but extended it to November 30, 2000. On November 24, 2000, the Commissioners indicated that they would not be able to meet the November 30, 2000 deadline either.

Part Seven of this paper outlines BCPSEA's submission as the accredited bargaining agent for the province's 60 public school boards. In gathering the views of boards as the basis for the submission, Charles Hingston, BCPSEA Chair at the time, and Hugh Finlayson, Executive Director, conducted seven regional meetings with school trustees and district staff. Representatives from 54 school districts participated in the meetings.

Part Two – Events Leading to the Inquiry

A detailed chronology of events leading to the inquiry is presented in Appendix E. This chronology helps establish a context for a better understanding of recommendations for change.

In the early 1990s, the Commission of Inquiry into the Public Service and Public Sector, with mediator/ arbitrator Judi Korbin as commissioner, conducted an extensive inquiry into collective bargaining structures and compensation levels in the public sector. It held hearings and received hundreds of written submissions from various stakeholders. The commission's report considered the public school sector in a 27-page section, but did not recommend a change to the support staff bargaining structure. The sole reference to support staff bargaining in the K-12 sector was the following paragraph:

No submissions were received by the commission advocating change in bargaining arrangements for support staff in education. The vast majority of support staff are represented by CUPE, who endorses the current arrangements. This may be the result of the fact that these parties have been bargaining long enough to have developed an effective and efficient bargaining process based on mutual respect.

On September 27, 1995, the LRB issued an accreditation order to BCPSEA under both the *Labour Relations Code* and the *Public Education Labour Relations Act*. In September 1996, a question arose as to whether the 1995 accreditation order also covered support staff. In accordance with their procedures, the Labour Relations Board invited submissions relating to a proposed amendment to include support staff. Throughout the proceedings that followed, the LRB received submissions from support staff unions reinforcing their commitment to local bargaining. On July 29, 1998, the *Public Education Labour Relations Act* was amended to affirm BCPSEA's accreditation status relating to support staff.

The only practical change in this structure over the previous decade had been the requirement, since approximately 1994, that collective agreements negotiated by support staff unions and school boards be subject to ratification by BCPSEA in accordance with its *Policy and Procedures for Support Staff Bargaining*. The ratification criterion was limited to meeting the compensation guidelines and mandates established by the

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Public Sector Employers' Council. Compensation guidelines, limits, controls or criteria were not new phenomena in the public sector. Following is a summary of the provincial compensation policies since 1991:

Compensation Fairness Program, March 1991 - Wage increases were based on factors such as:

- demonstrable or measurable increases in productivity
- settlements or awards in the provincial private sector
- the ability of the public sector employer to recruit and retain employees in areas of demonstrable shortages of critical skills

In November 1991, regulations affecting compensation increases (the first two bullets above) were cancelled by the newly elected NDP government.

Compensation Guidelines, October 1994 - The guidelines limited increases to 0.8% per year for high wage earners (teachers, management (exempt) staff) and 1.2% per year for typical wage earners (support staff).

Mandate I, April 1996 - This 24-month mandate provided for a 0% increase in compensation for the first 20 months followed by up to a 1% increase to total salary payroll in the 21st month (referred to as 0 and delayed 1). The original compensation guidelines of October 1994 were to apply upon completion of Mandate I. These guidelines were rescinded in June 1997.

Mandate II, October 1997 - This 36-month mandate provided for a 0% increase in compensation for the first 24 months followed by up to a 2% increase in total compensation in the 25th month (referred to as 0, 0, 2).

A unique feature of public sector negotiations in the Mandate II period was the government's Public Sector Accord process, initiated by the Premier in January 1998. The process was used in all parts of the public sector and was described as a parallel process to collective bargaining, focusing on public policy initiatives that would have the effect of encouraging unions to accept the compensation mandates, thus facilitating contract settlements.

In December 1998, representatives of CUPE BC and the Public Sector Employers' Council Secretariat approached BCPSEA seeking the

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development of a voluntary provincial bargaining structure. Consistent with an earlier commitment of the BCPSEA Board of Directors to put such a request to school boards if requested by government or the unions, BCPSEA bylaw amendments were developed for submission to BCPSEA's April 17, 1999, Representative Council.

In late March 1999, CUPE held what the union described as its first K-12 bargaining conference. In a March 22, 1999, press release, CUPE reported, "As of today, 44 CUPE school locals have signed on to the concept of trying our hand at bargaining together, on issues that we have in common...." The Sectoral Bargaining Delegate Committee (referred to as the SBDC or SBC) was to lead the bargaining initiative.

Each year BCPSEA holds an Annual General Meeting in January and a Representative Council in April to conduct the legislative business of the association. At the 1999 Representative Council, a special resolution was put before the assembly that would have amended the constitution and bylaws to allow the creation of a voluntary form of provincial bargaining with support staff unions. The concept was framed as voluntary provincial bargaining on a narrow agenda — specifically, wages, term, pay equity and benefits.

The proposition advanced by the Public Sector Employers' Council Secretariat representatives at the meeting was that a common table was necessary to access what was referred to as the *plus* in '0-0-2 plus' — matters that could be contained in a sector specific Public Sector Accord.

The provincial bargaining concept was rejected by 87% of the total school board votes cast. The vote was weighted based on student population because it was a special resolution. Since the votes are secret, it's not known which districts voted in favour and which districts voted against the special resolution.

As a result of a July 26, 1999, press release issued by CUPE, BCPSEA learned that following the April 17 vote, discussions between government and CUPE representatives began concerning a legislated provincial bargaining system. As the record now shows, despite the commitments to introduce legislation to that effect, no such legislation was introduced and the legislature adjourned in July 1999.

"BCPSEA voted not to go to provincial bargaining on April 17. Immediately after that Glen Clark, Russ Pratt and CUPE officials met and one of the issues they

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touched on was province wide K-12 bargaining. CLARK AND PRATT ASSURED CUPE THAT PROVINCE WIDE BARGAINING WAS ON.”

Up to that time, CUPE's bargaining approach had been based entirely on the assumption that there would be a provincial table for negotiating so-called 'common issues.'

The 1999-2000 school year began with an ever increasing number of negotiations commencing. A set of common demands appeared at most bargaining tables. There were two attempts to assemble regional tables by employers: one on Vancouver Island became the Vancouver Island Labour Relations Council and the other in the Lower Mainland-Fraser Valley did not materialize.

In mid-January, School District No. 75 (Mission) put an ordinary resolution before the BCPSEA Annual General Meeting asking that the assembly again vote on the issue of "provincial bargaining with a narrow agenda." Because this was an ordinary resolution without the power to change the constitution and bylaws, the 'one district, one vote' voting method applied. The resolution again did not pass. Because the district-by-district voting results of the Annual General Meeting vote are not known, it is uncertain whether the concept of provincial bargaining was gaining or losing support.

In late January, the Public Sector Accord process — the process used in other parts of the public sector — was initiated within the context of job action in two districts and expected to escalate in a third. CUPE BC, as the union locals had at each local bargaining table, placed essentially the same common demands on the Accord table. On January 24 the *Interim Accord on K-12 Issues* was signed. The Chief Accord negotiator signed for government, CUPE BC for the unions, and BCPSEA for school districts. The signing of the *Interim Accord on K-12 Issues* was sufficient to end the strike action in the two districts, prevent the escalation in a third and set the stage for continued Accord discussions.

The Accord process confused an already complex set of negotiations. The blurring of the distinction between Accord matters and collective bargaining matters continued to plague the discussions. The Accord process, which was intended to examine public policy matters in a problem-solving framework, became another bargaining forum taking place within the context of either strike deadlines, strikes or pending legislation.

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On March 27 strike action commenced in 32 school districts. In an attempt to resolve the 32 disputes the Minister of Labour on March 28 appointed an Industrial Inquiry Commission (later referred to as IIC #1) to inquire into the disputes and provide recommendations for settlement by April 1. The commissioners in the *Industrial Inquiry Commission Report* provided this constructive summary as to the reasons for the impasse:

The various CUPE locals placed provincial bargaining demands on most of the local bargaining tables, even though the sector did not have province-wide bargaining. The school districts, although espousing they had the authority to bargain, would often not deal with these demands, claiming that the issues were not "local" issues. The parties have blamed each other for the dysfunctional bargaining process which has done nothing other than contribute to the stalemate in negotiations and the strike which began for the majority of school districts on March 27, 2000

Despite further efforts on March 31 and April 1 to resolve the collective bargaining disputes and conclude the accompanying Public Sector Accord, no resolution was found. The provincial legislature was recalled and Bill 7, the *Public Education Support Staff Collective Bargaining Assistance Act* was introduced, passed, and became law on April 2.

Part 1 of the Act provided for a second Industrial Inquiry Commission with the power to determine the collective agreements for local school boards and local unions named in the Act. Two reports were issued, May 30 and June 7, 2000, establishing the framework for settlement (Appendix H). Where the local parties were unable to conclude a collective agreement the Final Offer Selection arbitration method was used to resolve outstanding matters. (Appendix I).

Part Three – The Existing Bargaining Structure

The Participants

The Bargaining Agents, the Union, the Employer

Under the bargaining structure in effect at the time of the disputes and subsequent inquiry, the *employer* was each individual Board of School Trustees (school board). The *union* was the particular CUPE local or other union holding the Labour Relations Board (LRB) certificate for a unit of some or all of the support staff in a particular school district.

The definition of *employer* under the *Labour Relations Code* (the *Code*) includes an employers' organization, but no section of the *Code* or any other statute makes BCPSEA or any other employers' association the employer in place of the real employer — the school board.

BCPSEA is incorporated under the *Society Act*. It is an employers' association for the public school sector of the public sector under Section 4 of the *Public Education Labour Relations Act* and Section 43, *Accreditation of Employers' Organization*, of the *Code*. It has a constitution and bylaws, which are binding on it under both the *Society Act* and the *Public Sector Employers Act*.

As the accredited bargaining agent for all public school boards in the province, BCPSEA had the exclusive authority to bargain "for the employer" and "to bind the employer" by collective agreement; BCPSEA was the employers' association and bargaining agent, but not the employer.

Support staff unions organized one or more bargaining units of support staff in each district and were certified on that basis. Many bargaining units were certified to locals of CUPE. Twenty-four unions represented support staff in the sector. In most circumstances, locals represented employees of only one school board. Each CUPE local was a separate trade union under the *Code*. Each bargaining unit had its own collective agreement and the terms of the various support staff collective agreements varied significantly from district to district.

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Consequently, collective bargaining was conducted on a bargaining unit-by-bargaining unit, district-by-district basis, in the absence of an agreement among the various parties to engage in bargaining on a broader basis, such as the Okanagan Labour Relations Council and the Vancouver Island Labour Relations Council.

BCPSEA was therefore the exclusive bargaining agent for each district in its local bargaining with its support staff union(s) for those individual collective agreements. It had recognized this role in its bylaws by establishing a negotiation framework that created a delegated authority model. The framework permitted the delegation of the bargaining agent's authority to negotiate to individual school boards, while retaining the authority to ratify agreements reached by school boards. An agreement reached by a support staff union and a school board did not become a collective agreement until it was ratified by BCPSEA. Support staff collective bargaining had been done on this basis since 1994.

Advent of the Delegated Authority Model

Following receipt of the Korbin Commission's *Final Report – Commission of Inquiry into the Public Service and Public Sector* on July 9, 1993, the *Public Sector Employers Act* was passed July 27, 1993, establishing the Public Sector Employers' Council and employers' associations in six sectors of the public sector:

- Health – Health Employers Association of BC
- Colleges and institutes – Post Secondary Employers' Association
- Education (K-12) – BC Public School Employers' Association
- Universities – University Public Sector Employers' Association
- Crown corporations, agencies and commissions – Crown Corporations Employers' Association
- Social Services – Community Social Services Employers' Association

Section 5 of the Act established a staff group, referred to as the PSEC Secretariat, to assist the council. The Secretariat is responsible for providing assistance to employers' associations, where necessary, and to ensure that there is communication among the employers' associations so that each sector's implementation of broad public sector strategies is aligned.

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The BCPSEA constitution and bylaws were developed during May and June of 1994, and approved on September 16, 1994, at the association's first Annual General Meeting. The constitution and bylaws were subsequently approved by the Minister of Finance under Section 7(4) of the *Public Sector Employers Act*.

The bylaws provided for a governance structure with a board of directors consisting of:

- nine elected school trustee representatives
- four appointed government representatives
- one appointed non-voting representative from the BC School District Secretary Treasurers' Association
- one appointed non-voting representative from the BC School Superintendents' Association.
- one past chair.

With respect to support staff bargaining, the constitution and bylaws sought, to the extent possible, to replicate the bargaining structure that had existed prior to the creation of the association. It was generally believed that the existing system of collective bargaining for support staff was functional and effective. These sentiments were reflected in submissions to the Korbin Commission during the inquiry into the public sector in the early 1990s; no submissions were received by the commission advocating change in bargaining arrangements for support staff in education. The commission did not recommend any change in the bargaining structure in its final report in June 1993.

The BCPSEA constitution and bylaws established a 'delegated authority' model for support staff bargaining. The bargaining agent, BCPSEA, delegated its bargaining authority through its bylaws to individual school boards or groups of school boards. The employers bargained directly with their respective union locals. The reference to "groups of school boards" was designed to permit regional groupings of boards for bargaining purposes.

At the time of the passage of the constitution and bylaws in 1994, the Okanagan Labour Relations Council was such a group. It had been the accredited bargaining agent for a group of Okanagan school boards at the time of the passage of the *Public Education Labour Relations Act* in 1994.

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In October 1999, the Vancouver Island Labour Relations Council asked BCPSEA to vary the delegation of authority to nine Vancouver Island boards to permit the Vancouver Island Labour Relations Council to bargain on their behalf. The variance was subsequently confirmed by the BCPSEA Board of Directors following the submission of council rules (Appendix A).

The role of BCPSEA under this model was to provide assistance to school boards in helping them conclude collective agreements. This included providing research, legal advice, coordination and, where requested, becoming involved directly in negotiations or dispute resolution.

Ratification Under the Delegated Authority Model

Under Schedule 2, paragraph 2.3, of the bylaws, the directors of BCPSEA are required to adopt policies and procedures for delegation of authority to individual boards for negotiating support staff collective agreements subject to BCPSEA ratification:

Schedule 2, Part 2

- 2.3 The Directors must adopt policies and procedures for delegation of authority to school boards for matters involving support staff unions and for local matters involving teachers' unions, in accordance with the provisions of this Part.
- 2.4 The policies and procedures adopted respecting support staff unions shall incorporate the following principles:
 - a. authority to negotiate agreements shall be delegated to members or groups of members
 - b. authority to resolve any disputes arising out of the collective agreement shall be delegated to members or groups of members
 - c. members or groups of members shall inform the Association of their bargaining proposals, of proposals by their union(s), and of significant developments in collective bargaining and contract administration
 - d. proposed collective agreements negotiated with support staff unions shall be ratified by the school board affected or by a group of school boards affected according to that group's rules, and by the Association
 - e. each collective agreement shall be presented for ratification to the next Board of Directors' meeting following ratification by the member school board or such other time as the Directors may determine and ratification of such

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agreements by the Association shall be deemed to occur unless 2/3 of the Directors vote to reject the agreement.

Accordingly, BCPSEA adopted Policy 94-03, Policies and Procedures for Support Staff Bargaining.

BCPSEA Policy 94-03 – Policies and Procedures for Support Staff Bargaining

This policy sets out the criteria and procedure for ratification of support staff collective agreements. The procedure requires initial approval of a tentative collective agreement by the school board before ratification by BCPSEA.

The policy also stipulates that the sole criterion for ratification is whether the proposed collective agreement meets the compensation mandates set by the Public Sector Employers' Council. It is expected that individual school boards will be governed by sound labour relations principles, including the ability to pay, when negotiating and concluding an agreement.

The process for ratification is as follows:

- a. Notification by the school board to the union of the ratification process

As a courtesy and to establish a common understanding of the employer's legal obligation, we suggest that school board negotiators advise the union of the requirement for BCPSEA ratification, as well as, of course, of the school board's own ratification process.

- b. Approval by the school board

Once a tentative agreement has been concluded with the support staff union, it should be approved by the school board before submission to the BCPSEA Board of Directors.

School Boards as Employers

There are 60 school boards in the province, each with an elected Board of School Trustees. The number of trustees may be five, seven or nine. Elections are held either at large or within certain municipalities and rural

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areas within a community. Representational history and geography are determinants of board structure and vary throughout the province.

The *School Act* establishes that each board is a corporation, and its powers, duties and liabilities are set out in the *School Act*. School boards are distinct institutions, although they operate under a legislative framework and are funded almost exclusively by government. The fact that school districts are governed by elected and independent boards gives rise to different approaches to the provision of education services and employer/employee relations. Given the long history of support staff bargaining, these different approaches were reflected in each district's collective agreement with support staff.

Appendix B lists school districts by student population.

At the time of the submission, there were 77 separate support staff union locals certified to represent support staff in school districts. See Appendix C for a detailed list by school board and union local.

Table: Summary of Unions and Associations Representing School District Support Staff in 2000

Unions and Associations Representing School District Support Staff	Number of Locals	Percentage of Support Staff Employees (FTE)
BC Government and Service Employees' Union	2	0.99%
Canadian Union of Public Employees	53	83.80%
Cement Masons' Section of Operative Plasterers & Cement Masons International Association	1	0.01%
International Association of Heat & Frost Insulators	1	0.05%
International Association of Machinists and Aerospace Workers, Vancouver	1	0.04%
International Brotherhood of Electrical Workers	1	0.22%
International Brotherhood of Painters & Allied Trades	1	0.17%
International Union of Bricklayers	1	0.02%
International Union of Operating Engineers	3	6.64%
International Wood and Allied Workers of	1	0.64%

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Canada		
Unions and Associations Representing School District Support Staff	Number of Locals	Percentage of Support Staff Employees (FTE)
Non-Teaching Staff Association	1	0.12%
Sheet Metal Workers International Association	1	0.10%
Teamsters	2	2.74%
United Association of Journeymen of the Plumbing and Pipefitting Industry	1	0.12%
United Brotherhood of Carpenters & Joiners of America	6	3.42%
West Vancouver Municipal Employees Association	1	0.92%

History of Support Staff Bargaining Structures

The existing bargaining structure has been in place for decades. Support staff unions have been certified district by district with negotiations taking place between union locals and individual school boards. In the past, there have been times when regional bargaining councils formed for the purposes of collective bargaining.

From the early 1970s until the passage of the *Public Education Labour Relations Act* in 1994, there were, at varying times, six accredited employer organizations. These included:

- East Kootenay Labour Relations Council
- West Kootenay Labour Relations Council
- Okanagan Labour Relations Council
- Coast 5 Labour Relations Council
- Mid-Island Labour Relations Council
- Greater Victoria Labour Relations Association

Appendix D provides a detailed analysis of the employer organizations and the events that led to their creation, restructuring, and in some cases, dissolution. The key points are summarized below:

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British Columbia School Trustees Association, 1971 - 1979

The British Columbia School Trustees Association is a provincial advocacy association representing public school trustees. Membership in the association is voluntary. Until 1979, the association had a personnel and employee relations division based in Vancouver. The division provided advice and assistance with labour relations, bargaining and arbitration. During the 1970s, the association had four accreditations: East Kootenay, West Kootenay, Okanagan, and the North Coast. Staff from the association or contracted personnel would bargain in these regions on behalf of the member school boards.

In 1979, through an internal reorganization, the association eliminated the personnel and employee relations division. The association transferred decision-making authority and responsibility to the individual bargaining groups while still technically retaining the bargaining units and bargaining authority under their corporate 'umbrella.'

East Kootenay Labour Relations Council, 1979 - 1984

Decision-making and authority were transferred from the BC School Trustees Association to the East Kootenay Labour Relations Council in 1979. There were six school districts involved: School District Nos. 1 (Ferne), 2 (Cranbrook), 3 (Kimberley), 4 (Windermere), 18 (Golden), and 86 (Creston-Kaslo). A master agreement was negotiated during this period.

In early 1984, four of the six districts applied to the LRB to cancel the accreditation. Factors contributing to this application were reportedly a long lockout in 1978, a 3% across-the-board increase in the 1982-1983 agreement, and a push for greater local autonomy. The LRB, while reluctant, cancelled the accreditation because the majority of school districts wanted to leave the council and the LRB felt that there would be very little practical advantage to continuing.

West Kootenay Labour Relations Council, 1979 - 1994

Decision-making and authority were transferred from the BC School Trustees Association to the West Kootenay Labour Relations Council in 1979. The accreditation continued until June 7, 1994, when the *Public*

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Education Labour Relations Act came into effect, canceling the accreditation. There were four school districts involved in the accreditation: School District Nos. 7 (Nelson), 9 (Castlegar), 10 (Arrow Lakes) and 12 (Grand Forks). A master agreement was negotiated up until 1994.

In 1996, School District No. 7 (Nelson) was amalgamated with School District No. 86 (Creston-Kaslo), School District No. 9 (Castlegar) was amalgamated with School District No. 11 (Trail), School District No. 12 (Grand Forks) was amalgamated with School District No. 13 (Kettle Valley), and School District No. 10 (Arrow Lakes) was not affected.

Employees in the amalgamated school districts could only be covered by one collective agreement. As a result, the employees in the new districts went to the Nelson, Castlegar and Grand Forks collective agreements respectively (Arrow Lakes was unaffected). As a result, even today, most of the collective agreement language in the West Kootenay districts is the same.

Okanagan Labour Relations Council, 1979 - Present

Decision making and authority were transferred from the BC School Trustees Association to the Okanagan Labour Relations Council in 1979. This accreditation continued until June 7, 1994, when the *Public Education Labour Relations Act* came into effect.

There were 10 school districts involved in the accreditation: School District Nos. 13 (Kettle Valley), 14 (Southern Okanagan), 15 (Penticton), 17 (Princeton), 19 (Revelstoke), 21 (Armstrong-Spallumcheen), 22 (Vernon), 23 (Central Okanagan), 77 (Summerland), and 89 (Shuswap). Two of these school districts, No. 22 (Vernon) and No. 23 (Central Okanagan), withdrew in 1990.

When BCPSEA became the accredited bargaining agent under the *Public Education Labour Relations Act*, the delegated authority model in the BCPSEA constitution and bylaws allowed the Okanagan Labour Relations Council structure to continue. Following amalgamation in 1996, the two Okanagan school districts, No. 22 (Vernon) and No. 23 (Central Okanagan), that withdrew in 1990 remained independent from the Okanagan Labour Relations Council. With the exception of two school districts within the council, a master agreement covers all council members.

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Coast 5 Range Labour Relations Council, 1979 - 1994

Decision making and authority were transferred from the BC School Trustees Association to the Coast 5 Range Labour Relations Council in 1979. There were four school districts involved in this accreditation: School District Nos. 52 (Prince Rupert), 54 (Bulkley Valley), 55 (Burns Lake), and 88 (Terrace).

From 1980 - 1987, all of the agreements were negotiated individually by the same employer negotiator at each of the tables. From 1987 onwards, subject to ratification by the council, individual districts negotiated their own agreements. From that point forward, the council was used more as a communications vehicle. The accreditation was cancelled with the passage of the *Public Education Labour Relations Act*.

School District No. 68 (Nanaimo) and the Mid-Island Public Employers' Association, 1975

This accreditation did not involve the BC School Trustees Association. It involved five public sector employers in the Nanaimo region: Malaspina College, Town of Ladysmith, City of Nanaimo, Regional District of Nanaimo, and School District No. 68 (Nanaimo).

From 1975 - 1978, one round of negotiations was conducted. After this first round, the association bargained on behalf of its members in separate negotiations, subject to ratification by the association and all agreements having the same term dates. In 1980, the school district applied to the LRB to withdraw from the accreditation, but the application was not granted. Eventually the district was able to withdraw.

School District No. 61 (Greater Victoria) and the Greater Victoria Labour Relations Association, 1976 - 1989

This accreditation did not involve the BC School Trustees Association. It involved six public sector employers in the greater Victoria region: School District No. 61 (Greater Victoria), Capital Regional District, Corporation of the City of Victoria, Corporation of the Township of Esquimalt, Corporation of the District of Oak Bay, and Corporation of the District of Saanich.

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In the 1981 round, the association negotiated on behalf of four members (including School District No. 61), with a joint negotiating committee made up of six union locals. In 1989, the school district applied to the LRB to withdraw from the accreditation, asserting that a 'community of interest' no longer existed between the school district and the other employers. The application was granted on December 31, 1989.

Pacific Employee Relations Association, 1992 - 2001

In 1992, School District No. 61 (Greater Victoria), 63 (Saanich), 65 (now 79), (Cowichan Valley), 68 (Nanaimo), 71 (Comox Valley) and 85 (Vancouver Island North) formed the Pacific Employee Relations Association. It was formed as an independent society but was never an accredited employer organization. The main purpose of this new association was to coordinate teacher bargaining.

In March 2001 members of the Pacific Employee Relations Association agreed to disband the association. They cited the emergence and success of the Vancouver Island Labour Relations Council as the main reason for their decision.

Vancouver Island Labour Relations Council, 1999 - present

In October 1999, School District Nos. 61 (Greater Victoria), 63 (Saanich), 64 (Gulf Islands), 68 (Nanaimo-Ladysmith), 69 (Qualicum), 71 (Comox Valley), 79 (Cowichan Valley), and 84 (Vancouver Island West) met to form a regional bargaining council to negotiate support staff collective agreements. Interested school boards subsequently formed the Vancouver Island Labour Relations Council.

The council applied to BCPSEA to have the individual school board delegation of authority varied to permit the council to bargain on their behalf. The variance was granted and the districts participating in the council were confirmed to be School District Nos. 61 (Greater Victoria), 62 (Sooke), 63 (Saanich), 64 (Gulf Islands), 69 (Qualicum), 70 (Alberni), 71 (Comox Valley), 79 (Cowichan Valley), and 84 (Vancouver Island West).

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Part Four – History of Job Action in the Sector

Appendix F details the strikes and days lost in the sector since 1990. Between 1990 and 1994, when BCPSEA became the accredited bargaining agent, there were eight support staff strikes. Between 1994 and the circumstances that gave rise to Industrial Inquiry Commission #3, there were three strikes.

In the 1999 - 2000 school year, there were two strikes in late January: School District Nos. 41 (Burnaby) and School District No. 42 (Maple Ridge-Pitt Meadows). Notice was given in a third – School District No. 37 (Delta).

As part of the strike organized for March 27, 2000, initially 32 districts were struck, representing 34 CUPE locals. Of the districts on strike, only the CUPE local in School District No. 38 (Richmond) was not part of the CUPE locals represented by the CUPE Sectoral Bargaining Committee.

There were, however, collective agreements concluded between 1999 and 2000. The table below lists the agreements.

Table: Collective Agreements and Dates

School District No. 39 (Vancouver) <ul style="list-style-type: none">• Sheet Metal Workers International Association• International Association of Heat & Frost Insulators, Local 118• International Association of Machinists & Aerospace Workers,• Vancouver Lodge 250• International Brotherhood of Painters & Allied Trades, District Council 38• International Union of Bricklayers, Local 1• United Brotherhood of Carpenters and Joiners Local 1995• Cement Masons' Section of Operative Plasterers & Cement Masons• International Association, Local 919• International Brotherhood of Electrical Workers, Local 213	Ratified September 17, 1999
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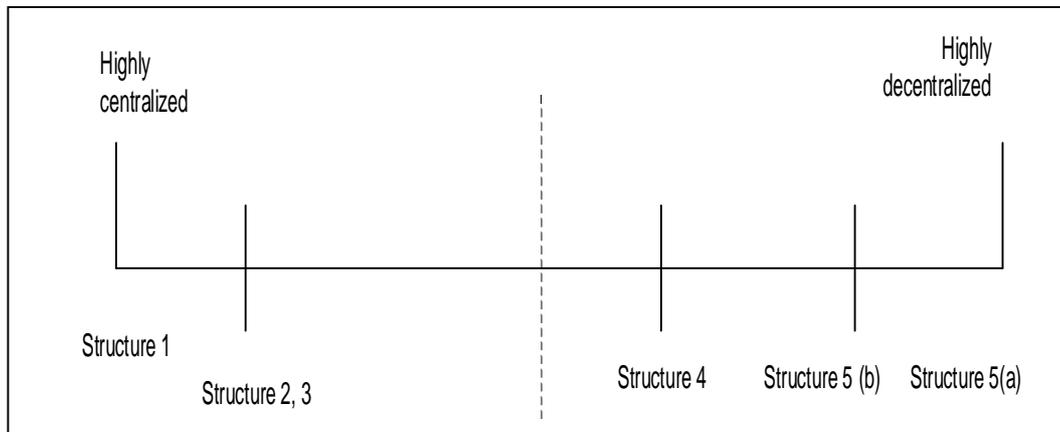
School District No. 59 (Peace River South), BCGEU	Ratified September 17, 1999
School District No. 43 (Coquitlam), CUPE 561	Ratified November 2, 1999
School District No. 52 (Prince Rupert), International Union of Operating Engineers Local 882-B	Ratified December 3, 1999
School District No. 36 (Surrey), CUPE 728	Ratified January 13, 2000
School District No. 45 (West Vancouver), West Vancouver Municipal Employees' Association	Ratified March 1, 2000
School District No. 57 (Prince George), United Brotherhood of Carpenters & Joiners of America Local 2106	Reached a tentative agreement March 25, 2000 Ratified September 22, 2000
School District No. 28 (Quesnel), United Brotherhood of Carpenters & Joiners of America Local 2545	Ratified May 26, 2000
School District No. 59 (Peace River South), Teamsters Local 31	Ratified May 26, 2000
School District No. 87 (Stikine), CUPE 3234	Reached tentative agreement prior to June 4, 2000 — the deadline set by IIC #2
School District No. 8 (Kootenay Lake), CUPE 748	Reached tentative agreement prior to June 4, 2000 — the deadline set by IIC#2

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Part Five – Bargaining Structures

For the purpose of discussion in regional meetings with school boards, BCPSEA set out five general bargaining structures (see table below). Structure 5(a) Local (District by District) Bargaining represents the structure as it existed at the time of the submission. As a point of reference, Structure 3 Two-Tiered Bargaining represents the teacher bargaining structure. With respect to teacher bargaining, however, it can be argued it is essentially a one-tier provincial bargaining structure as in the first round of provincial bargaining only matters of limited substance and importance were bargained at local tables. The Okanagan Labour Relations Council, the longest standing employers' group in the K-12 sector, and the Vancouver Island Labour Relations Council, were variations of Structure 4 Zonal or Regional Bargaining.

In the regional meetings, BCPSEA discussed the bargaining structures in terms of the degree of centralization and decentralization. The general structures can be placed on the following scale using these criteria.



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Table: General Bargaining Structures

Options	Features						
Structure 1 Provincial Bargaining	All matters bargained in one master collective agreement.						
Structure 2 Three-Tiered Bargaining	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; vertical-align: top;">1st Tier</td> <td>Broad sector policy issues would be addressed provincially.</td> </tr> <tr> <td style="vertical-align: top;">2nd Tier</td> <td>Compensation issues, such as salaries, pensions, and benefits would also be addressed provincially.</td> </tr> <tr> <td style="vertical-align: top;">3rd Tier</td> <td>Issues identified as local would be addressed locally.</td> </tr> </table>	1 st Tier	Broad sector policy issues would be addressed provincially.	2 nd Tier	Compensation issues, such as salaries, pensions, and benefits would also be addressed provincially.	3 rd Tier	Issues identified as local would be addressed locally.
1 st Tier	Broad sector policy issues would be addressed provincially.						
2 nd Tier	Compensation issues, such as salaries, pensions, and benefits would also be addressed provincially.						
3 rd Tier	Issues identified as local would be addressed locally.						
Structure 3 Two-Tiered Bargaining	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; vertical-align: top;">1st Tier</td> <td>BCPSEA would bargain provincially on matters of salary, benefits and most matters with provincial impact. Most contract items with a dollar value or that are significantly common to all districts would be bargained provincially. There would be one master agreement for the province.</td> </tr> <tr> <td style="vertical-align: top;">2nd Tier</td> <td>Local issues would be dealt with locally by union and management at the local level.</td> </tr> </table>	1 st Tier	BCPSEA would bargain provincially on matters of salary, benefits and most matters with provincial impact. Most contract items with a dollar value or that are significantly common to all districts would be bargained provincially. There would be one master agreement for the province.	2 nd Tier	Local issues would be dealt with locally by union and management at the local level.		
1 st Tier	BCPSEA would bargain provincially on matters of salary, benefits and most matters with provincial impact. Most contract items with a dollar value or that are significantly common to all districts would be bargained provincially. There would be one master agreement for the province.						
2 nd Tier	Local issues would be dealt with locally by union and management at the local level.						
<p>Notes – Structures 1, 2 and 3:</p> <p>As the accredited bargaining agent, BCPSEA would negotiate the collective agreement.</p> <p>Mechanisms have to be in place to recognize certain regional differences. For example, some northern districts have certain incentives or allowances to assist in recruitment or to account for geographical concerns. In each of these structures, there would be a provincial-local split of issues.</p> <p>Over successive rounds of collective bargaining, the sector would change from a series of collective agreements to a master agreement. The number of local issues would diminish over time.</p>							

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<p>Structure 4 Zonal or Regional Bargaining</p>	<p>The province would be divided into regions where a community of interest exists among employers and unions. A group of school boards would bargain together. This could be done on an informal/voluntary basis or through a more formal process that establishes the regions and bargaining structures.</p>
<p>Notes – Structure 4</p> <p>As the accredited bargaining agent, BCPSEA would negotiate each regional agreement or would simply coordinate the regional process. Regional negotiations may include all districts present with their union counterparts.</p> <p>Mechanisms have to be in place to recognize certain district differences. A separation of regional and local matters may be necessary, although over time the number of local matters would diminish.</p> <p>Over successive rounds of collective bargaining, the region would change from a series of collective agreements to a regional agreement.</p>	
<p>Structure 5 Local (District by District) Bargaining</p>	<p>Each school board bargains a collective agreement with its local union.</p>
<p>Notes – Structure 5</p> <p>(a) This is the structure established in 1994. It was designed to replicate the structure that had existed prior to the advent of BCPSEA. As the accredited bargaining agent, BCPSEA delegated the authority to bargain to each school board. Each school board negotiated a collective agreement subject only to ratification by BCPSEA on compensation matters.</p> <p>(b) Representatives of BCPSEA and each employer would negotiate each local collective agreement.</p>	

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Commentary on Bargaining Structure

Different bargaining structures have emerged over time. Each emerged for reasons specific to the time of development. The emergence of regional structures in the 1970s and 1980s, and the desire by employers to have provincial bargaining for teachers, were both products of the bargaining environment at the time.

Bargaining in the public sector will always have a measure of government involvement given the size of the public sector and the nature of the services provided. In the bargaining structure at the time of the submission, government had chosen to try to regulate public expenditures through wage guidelines, and had supplemented those guidelines with the Accord process. This approach required a centralized structure — hence the ‘common table equals Accord’ admonition at the time.

It is apparent that in decentralized systems where the structure, operation and bargaining history of the employers is similar or the same, there is a need for a greater degree of coordination so that one employer or union is not played off against another. When examining school districts as employers, voluntary bargaining groups or structures typically do not appear to emerge or, where created, survive past one round of negotiations.

In their individual submissions school boards were advocating for a system that allowed for the uniqueness of their districts, as represented in their collective agreements, to be recognized. The greater the degree of centralization, the greater the ‘generalization’ of terms and conditions, they argued. If local bargaining was the best way to accomplish this, then the alternative to local bargaining was a form of regional bargaining. Both of these views were predicated on the belief that the bargaining authority had to be clear and monies available to bargain known at the outset of bargaining.

The general advantages and disadvantages of centralized and decentralized bargaining structures are set out in the following tables:

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Table: General Advantages and Disadvantages of Centralized Bargaining

Advantages	Disadvantages
<ul style="list-style-type: none"> • Simplifies the administration of negotiations • Allows both sides to be better prepared for negotiations (Korbin, 1993) • Reduces the duplication of negotiation of similar issues • More cost efficient (Korbin, 1993) • Allows government to better control budget (Christensen, 1980) • Increases political accountability (Christensen, 1980) • Economies of scale in negotiations • More efficient collective agreement administration — it is easier to administer benefits to larger numbers • More experienced negotiators who will have time to be better prepared for negotiations • Uniform treatment of services — increased consistency of wages, benefits, etc. 	<ul style="list-style-type: none"> • Highly influenced by political winds • Doesn't allow for local interests to be heard or addressed • Alienation of individual locals • More people are affected by strikes • Negotiations can be lengthier because of the number of parties represented • Limits the ability of individual employers and employees to participate meaningfully in labour relations processes • Centralization of bargaining would be very costly because of the leveling up (Korbin, 1993)

Table: General Advantages and Disadvantages of Decentralized Bargaining

Advantages	Disadvantages
<ul style="list-style-type: none"> • Because of the increased involvement at the local level, both parties are responsible for living with the collective agreement that they negotiate • Allows for local issues and concerns to be addressed • Better representation of diverse interests • Disputes have a limited impact on third parties • Less likely to be politicized so government intervention is less frequent • The collective agreement negotiated should better reflect the local working conditions and economic situation 	<ul style="list-style-type: none"> • Increased number of negotiations • Not cost efficient • Parties end up negotiating a large number of collective agreements that look substantially similar

Part Six – Unions' Submissions to the Commission

This part of the paper summarizes the submissions made to the commission by support staff unions in the K-12 sector. On May 16, 2000, IIC #3 commissioners Ready and Holden invited school districts and unions in the sector to make written submissions concerning the structure of support staff collective bargaining by June 16, 2000. BCPSEA, 41 school districts and 5 unions made written submissions by the June deadline. CUPE BC, however, advised the commission that it was not prepared to make a submission until the Fall.

The commission also invited oral submissions in support of the written submissions to be heard on July 5. The International Union of Operating Engineers made submissions representing three locals in the province and six school boards: No. 20 (Kootenay-Columbia), 35 (Langley), 36 (Surrey), 39 (Vancouver), 43 (Coquitlam) and 45 (West Vancouver). The commission agreed to hear CUPE BC, BCPSEA and any other submissions in reply on October 5, 2000.

Prior to the October hearing, CUPE BC and the following CUPE locals made written submissions:

- Vancouver CUPE Locals 15 and 407
- Burnaby CUPE Local 379
- North Vancouver CUPE Local 389
- New Westminster CUPE Local 409
- Coquitlam CUPE Local 561
- Richmond CUPE Local 716
- Surrey CUPE Local 728
- Delta CUPE Local 1091
- Sunshine Coast CUPE Local 801
- Vancouver Island North CUPE Local 211

The Minister of Labour had initially set a deadline of August 31, 2000, for completion of the final report, but extended it to November 30, 2000. On

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November 24, 2000, the commissioners advised the Minister of Labour that they would not be able to meet the November 30 deadline:

“Given the complexity of the task and the need to conclude certain issues under Part I of the Act, the November 30, 2000 deadline imposed by the former Minister of Labour will not be met.”

CUPE BC and CUPE Locals

There were 77 separate support staff union locals certified to represent support staff in school districts. Of the total, however, 53 were CUPE locals. CUPE locals had a range of views on the recommended structure; they have a history of local autonomy and independence. Each local holds the LRB certification and internally manages its own affairs. CUPE BC is not a union in the same sense each local is and acts as an umbrella association with the locals as active members.

CUPE BC advocated for the province-wide bargaining model and provided evidence that 40 locals were in favour of such a model. CUPE BC identified three factors as being important when selecting a bargaining structure:

- the union must be able to negotiate with those who have the power
- it must be able to negotiate both provincial and local issues
- it must have the right to strike over all issues

CUPE BC asserted that provincial-local two-tiered bargaining with mandatory membership was the optimal bargaining structure for K-12 support staff in BC. This structure, they argued, would allow CUPE members to negotiate more directly with those who have the authority to accept and fund the agreement. As well, the employers' association would be in a better position to seek financial commitments from government than local school boards.

Two fundamental issues were considered necessary for the success of this structure from their perspective. First, those issues deemed local had to remain local, unless the parties mutually agreed to remove them from the local tables. Second, the unions had to be able to strike over both local and provincial matters.

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The CUPE locals that made submissions opposing CUPE BC's submission for provincial bargaining had consistent themes.

CUPE Local 389, North Vancouver, made their submission on October 4, 2000. Past experience with CUPE's attempt at province-wide bargaining was not positive for this local. Province-wide bargaining led to poor communication between the bargaining committee and the local members the local observed.

In addition, they maintained that because the needs of CUPE members across the province are "diverse...they would be better represented in a regional structure with each local having representation." Also, regional bargaining would reduce the travel and accommodation costs that are incurred in provincial bargaining.

While the ultimate bargaining structure is local bargaining, they did not support regional bargaining with representation of each local. Later, the membership voted in favour of voluntary K-12 provincial bargaining for one time only given the circumstances.

CUPE Local 801, Sunshine Coast; 409, New Westminster; and 379, Burnaby made their submissions on October 3, 2000. These locals supported free collective bargaining to be achieved through local-level bargaining. They opposed provincial bargaining for the following three reasons.

First, the locals and the employers had been able to maintain and develop a reasonable relationship free of any legal bargaining impasses. The unions were proud of their bargaining history and attributed most of this to local bargaining and their relationship with their respective employers.

Second, they contended that local bargaining is much less costly, as there are no travel and accommodation costs incurred. If the bargaining had been moved to the provincial level, the union stated it may not have been able to afford the costs and therefore, not been able to participate in the negotiations.

Finally, the locals argued that while 70% of the union supported provincial bargaining, the 30% who opposed it represented a larger number of employees.

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CUPE Local 728, Surrey, made their submission on October 3, 2000. The union did not support two-tiered bargaining because it would not allow for their local concerns to be addressed. In addition, the union pointed to the inability of the teachers' union to reach an agreement as a reason for not adopting this same structure of bargaining.

Finally, the union voiced concern over the lack of representation they would have under provincial bargaining. At the time, they represented 10% of the CUPE K-12 workers in the province and feared that they would not have proportional representation at the table.

Other Unions Representing Support Staff

The other unions generally believed that the local union-local school district bargaining model was preferable to provincial bargaining or other structural change.

Teamsters Local No. 31 made their submission on July 20, 2000. The Teamsters strongly opposed province-wide bargaining. They believed that the current local bargaining structure was "the most efficient and effective in allowing locally-tailored labour relations that are responsive to the particular school district and employees." It felt that a shift towards province-wide bargaining would not reduce, and could potentially increase, the number and duration of strikes.

The Teamsters contended that Local 31 had negotiated every collective agreement for the previous 20 years without losing a single day to strike or lockout. The CUPE job action they submitted, was a result of wage freezes imposed by government and not of the bargaining structure.

Finally, the union argued that employees did not ask for and did not want province-wide bargaining. They stated that employees, under both the provincial and federal labour codes, have the right to representation of their choice. Employees select both a union and its bargaining structure. The Teamsters asserted that although the government had the right to amend the structure of bargaining, it should not do so without "profound or rock-solid reasons so as to not unnecessarily trample over employees' rights."

BC Council of Carpenters made their submission on June 26, 2000. This union felt that the structure of bargaining at the time was ineffective

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because BCPSEA was “directing province-wide bargaining district by district.” It was therefore not surprised that CUPE, who once endorsed local bargaining, now supported provincial bargaining as they faced an organization with a province-wide strategy. This structure was chaotic and created a potential for increased labour instability. The union opposed a two-tiered structure, arguing that “if you have a half filled bottle, you either empty it or fill it” (bargaining should either be provincial or local, not split).

The **International Union of Operating Engineers, Locals 882, 959 and 963**, made their submission on June 15, 2000. This union did not support provincial bargaining. It felt that the lack of job action at the time indicated that the current structure of local bargaining had worked effectively for the union. They felt that this structure “not only works, but works well.”

As a smaller union relative to CUPE in the K-12 sector, it felt that a move to provincial bargaining would take away all its bargaining power and would result in CUPE taking over the collective bargaining for all support workers in the province. Smaller unions would not have the funds to participate in provincial negotiations as the travel and accommodation costs would be exorbitant. Furthermore, the smaller unions would have very little influence, if any, on the outcome of negotiations. Finally, it felt that provincial bargaining did not allow the flexibility for local issues to be addressed.

The **West Vancouver Municipal Employees' Association** made their submission on June 14, 2000. This union contended that the current structure created uncertainty at the table, as the parties were not sure as to what was acceptable or not, and it disrupted the flow of bargaining. Both the union and the employer had to inquire as to whether or not they were still within the guidelines they observed. The union felt that the best solution was for the government to move away from targeted funding to allow the employer increased flexibility. The union did not comment specifically on the proposed changes in the structure.

Part Seven – BCPSEA Assessment and Recommendations

Section 10 (3, 4) of the *Public Education Support Staff Collective Bargaining Assistance Act* establishes the parameters for recommendations by the commission:

- (3) The recommendations under subsection (1) may include, without limitation, recommendations respecting any or all of the following:
 - (a) the establishment of associations or other organizations consisting of all or some of the support staff unions and the functions of those associations or organizations, including the extent of their bargaining authority;
 - (b) the establishment of two-tiered bargaining structures and the designation of bargaining matters for the purposes of those structures;
 - (c) the establishment and content of articles of association for any association or other organization of support staff unions;
 - (d) the conferral of jurisdiction on the Labour Relations Board in relation to any matter arising from the commissioner's recommendations.

At the regional meetings held to seek the input of employers and explore options, BCPSEA asked participants to consider the following question:

What collective bargaining structure, with its associated policies and procedures, is the most effective and efficient given the nature of the K-12 sector and its employees, the resources we have available, our bargaining history and the environment in which we bargain?

BCPSEA's Assessment and Recommendations

This part of the paper outlines BCPSEA's assessment and recommendations made to the commission. The association argued that the task before the commissioners was to examine the existing structure and make a judgement as to whether structural changes would achieve the objectives contained in the commission's legislative mandate. This led to a series of questions that BCPSEA believed had to be answered.

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- What was the commission trying to achieve with recommendations for change to the bargaining structure? What were the objectives?
- Was there a problem with support staff collective bargaining in the sector?
- If there was a problem, was there a structural problem?
- What were the options and what were our recommendations? Were there any prerequisites that had to be met before structural changes could be pursued?

What were the Objectives?

BCPSEA believed that the objectives could be summarized as “creating bargaining structures that”:

- facilitate the practice and procedure of collective bargaining between school boards and unions as the freely chosen representatives of school board employees
- ensure industrial stability and therefore minimize the disruption to children’s education
- establish the basis for effective and productive union-management relations

Was there a Problem with Support Staff Collective Bargaining in the K-12 Sector?

BCPSEA took the position in its submission that “there was a problem when there were collective bargaining disputes in 44 of the 60 school districts.” With 77 union locals and 60 employers, there had been relatively few strikes and school days lost in the previous ten years. The larger question that deserved analysis, the association asserted, was, given that there was a problem, was the problem structural in origin.

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Was there a Structural Problem?

When considering whether the “problem with support staff bargaining” had a structural origin, BCPSEA asserted that it was important to be clear on the structure being referred to. Specifically:

- **Employer bargaining agent delegated authority:** BCPSEA delegates the authority to bargain a collective agreement to an individual school board or, in the case of the Okanagan Labour Relations Council or the Vancouver Island Labour Relations Council, to groups of boards. BCPSEA ratifies on the basis of the compensation mandates established by the Public Sector Employers’ Council.
- **Compensation mandates:** the Public Sector Employers’ Council establishes mandates or guidelines, which set the parameters for compensation increases for public sector employees.
- **Unions:** The individual union locals holding the Labour Relations Board certification negotiate with each school board.

The negotiations and the resulting disputes which gave rise to the inquiry had two other features:

- **The Accord process:** A provincial government process initiated to find public policy solutions to non-collective bargaining employment issues. The Accord process was a supplementary process designed to provide the necessary incentives for public sector unions to conclude collective agreements within the 0-0-2 compensation mandate. The Public Sector Employers’ Council Secretariat representatives advised BCPSEA and CUPE that Accords could only be accessed through a common collective bargaining table—there would be one Accord for the K-12 sector. Further, the Chief Accord Negotiator would deal with only one union regardless of the fact that there were many unions in the sector. He advised it was the responsibility of the unions to sort out representational issues and access between them related to the Accord process.
- **CUPE sectoral bargaining approach:** CUPE locals, with the exception of locals in School District Nos. 36 (Surrey), 38 (Richmond), and 43 (Coquitlam), formed a Sectoral Bargaining Committee (SBC) later referred to as the Sectoral Bargaining Delegate Committee (SBDC). It was argued that this approach grew out of the representations made

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by government and the recognition that the Accord process could provide benefits that could not be achieved through local-by-local bargaining.

Given the history of the sector, collective bargaining in the 1999 - 2000 school year clearly represented an exception, BCPSEA argued. Further, an examination of the record and each dispute indicated that the disputes arose for specific reasons according to a particular strategy.

In their submissions, school boards provided their perspective on the existing situation. School District No. 20 (Kootenay-Columbia) for example, in its submission to the commission, provided an overview that is a useful summary.

We see the problem that led to the CUPE strike and the appointment of the Industrial Inquiry Commission as follows:

- CUPE being held to the strict monetary Public Sector Employers' Council guidelines since their inception in the fall of 1994 whereas other public sector unions including teachers were receiving extras in addition to the compensation settlements. "BCPSEA would not allow any employer to pay one cent more even though there were certain flexibilities built into the mandate." (CUPE report - May 2000).
- Layoffs of CUPE members as the result of school board funding shortfalls. Items such as declining enrolment, under funding inflation, restrictive teacher collective agreements, job loss as a result of amalgamation and reduction of district grants all resulted in school boards having to reduce CUPE staffing to balance their budgets. It is our understanding that CUPE was assured that neither amalgamation nor the teacher collective agreement would impact their membership. "Key job security issues for our members have not been addressed. In the past three weeks we have seen employers in school districts across the province announce more and more lay-offs of our members" (CUPE report - May 2000).
- CUPE's dissatisfaction with BCPSEA being the "gate keeper" (i.e., enforcing the Public Sector Employers' Council compensation mandates) but not being party to the negotiations. "BCPSEA's constitution would not allow them to bargain anything because they have delegated that authority to individual school districts. As such they said that they did not have any ability to negotiate with anyone. Meanwhile they are retaining the authority to veto any agreement reached at the district table as the accredited bargaining agent" (CUPE report - May 2000). The relationship between BCPSEA and CUPE is strained. We believe this is in part due to the fact that BCPSEA acts both as advisors to school districts and must police the Public Sector Employers' Council monetary mandates of the government. This is plainly evident in the CUPE release dated May 9, 2000

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entitled "BACKGROUND to the province-wide strike by CUPE school support workers."

- CUPE felt they had no avenue to reach a settlement which they felt was consistent with the agreements reached in the broader public sector. School districts and BCPSEA were told that a collective agreement must be within the Public Sector Employers' Council mandate of 0%, 0% and 2%. CUPE recognized that other public sector employees were given compensation packages in excess of the guidelines.
- Employers also recognized that other public sector employees were receiving compensation packages in excess of the guidelines and were also feeling frustrated that they could not treat their employees equitably. This was one of the driving forces behind the formation of the Vancouver Island Labour Relations Council.
- Government did not clearly indicate to the parties the total available dollars to conclude collective agreements.
- The provincial Accord process, which was designed to provide public sector unions with sufficient dollars and incentives so that they would accept the 0-0-2 mandate, was ill defined, protracted and the dollars were never defined. Accords had been used in other parts of the public sector — most where common bargaining tables existed and it was now CUPE's opportunity to access the additional government funds. As the process carried on there was confusion as to what was on what table, the Accord or the bargaining table. The process served to divide the parties and this division had a spillover effect locally.
- No homogeneity among collective agreements. The individual unions have made very different deals and tradeoffs with the school boards over time. This created a potential profound problem in superimposing a single set of negotiations and a single set of proposals and contract language on a mosaic of different agreements and bargaining histories. School districts were not prepared to risk being saddled with provincial language which did not take into account local agreements and address the realities in their own districts.
- Based on this complex set of factors there was no avenue to conclude a collective agreement unless a) government intervened or b) CUPE accepted the Public Sector Employers' Council compensation guidelines full stop. Even in districts that managed to settle they included a "me too" clause. In the West Kootenay region, where three out of the four districts settled all the common demand items, these agreements included provisions to provide access to the LTD plan and the benefit trust.
- The solution to the impasse ultimately was for government to intervene by passing Bill 7, the *Public Education Support Staff Collective Bargaining Assistance Act*. Under this *Act* the Industrial Inquiry Commissioners Ready and Holden concluded that the "only way we were to accomplish our mandate was to bring together a logical group that could set a pattern for the rest of the province." The

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Vancouver Island Labour Relations Council was deemed to be that logical group. It was only through this process that the amount of funding that the province was willing to provide to settle the dispute was disclosed to the Employer.

- We concur with the conclusion reached by R. Alan Francis (Harris & Company – April 2000). The problem in bargaining was not due to the structure of the bargaining, nor a dysfunctional bargaining relationship, nor the fact that the school boards would not enter into provincial bargaining. The heart of the problem was that neither CUPE nor the boards had an avenue to access the additional funding available from government to settle an agreement. Ready/Holden have characterized this as follows:

“The various CUPE locals placed provincial bargaining demands on most of the local bargaining tables, even though the sector did not have province-wide bargaining. The school districts, although espousing they had the authority to bargain, would often not deal with these demands, claiming that the issues were not “local” issues. The parties blamed each other for the dysfunctional bargaining process....”

In their submission, School District No. 44 (North Vancouver) assessed the problem as follows:

The current system provided for an effective bargaining structure, with the normative resolution mechanisms of mediation, job action and so on until the intervention of the following:

- maximum mandated compensation outcomes
- enhanced expectations among union bargainers that mechanisms existed outside of the traditional bargaining structure to achieve outcomes beyond the mandates
- expectations among union and employers' groups that collective agreement resolutions were most commonly found in third party intervention
- expectations that governments would intervene in job action thus removing the natural forces that brought pressure on the parties to resolution
- expectations among the union bargainers that they could have access directly to government thus circumventing both local employers and the official bargaining agent for the employers (BCPSEA)
- policy developments such as provincial “Accords”
- multiple table discussions and the inherent confusion caused
- a “process-as-you-go” approach to bargaining based upon third-party needs.

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In each of the regional meetings and in the school board submissions, the sentiments expressed by School District No. 20 (Kootenay-Columbia) and School District No. 44 (North Vancouver) were common themes. BCPSEA asserted that the “problem with support staff collective bargaining” was not a structural problem. However, an assessment of the structure was nevertheless needed, given this experience.

Changing the Bargaining Structure: Prerequisites

School boards had a variety of views as to how support staff collective bargaining should be structured. This was not surprising given the different bargaining structures that existed and have existed in the province, the different unions involved and the fact that school boards are elected from their communities. From a review of the submissions and of the discussions at the regional meetings, the following conclusions were drawn.

1. No school board was advocating provincial bargaining to negotiate a master agreement. One district, however, recommended moving from the current system to a provincial system recognizing that this may involve a regional bargaining format as part of the transition. There was a recognition that moving from local bargaining to provincial bargaining was too costly and could not reflect either local or regional differences adequately. Further, there was no evidence in other jurisdictions with a similar history that this model had worked.
2. The roles and responsibilities of employers, unions, their respective bargaining agents and government, have to be clear and unambiguous. The process leads to stalemate when one party believes it can achieve something better outside the process than what they believe they could achieve by participating in the process.
3. Local differences must be recognized. Collective agreements have emerged from local decisions and local bargaining over time. Some argued that this was best accomplished by maintaining local bargaining. For example, School District No. 43 (Coquitlam) observed:

To summarize, we stand opposed to:

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- Any and all forms of provincial, regional or group bargaining for non-teaching employees because we do not believe that a single collective agreement model can effectively serve the needs of the non-teaching sector in school districts across the province; and
- Any form of two-tiered bargaining (wage and non-wage issues) for non-teaching employees because of the limitation this places on our ability to effectively negotiate all issues locally and develop “made in Coquitlam” solutions, which have served both parties well in the past.

Others argued that this could also be accomplished through regional bargaining. Okanagan Labour Relations Council districts were unanimous in advocating for continuation of the Okanagan regional structures as one member of the Council, School District 58 (Nicola-Similkameen), observed in its submission:

1.3.2 Assessment of the Effectiveness of Current Systems

The current structure has been extremely effective in bargaining as well as resolving disputes during the contract term. This is based on:

1. This structure has led to a very stable environment as there has been only one strike since 1970 when the Okanagan Labour Relations Council was accredited. This occurred in 1974 and involved five districts.
2. The structure is very efficient
 - (i) only seven bargaining days were required for the previous ten years covering SD 17 and 31.
 - (ii) The number of man-days per district per collective agreement is less than ten including both management and union.

The submissions from three Vancouver Island districts who participated in the Vancouver Island Labour Relations Council observed:

Through the ensuing months, the Vancouver Island Labour Relations Council successfully identified regional commonalities while recognizing specific local needs and responded in a constructive manner to the issues raised by CUPE. This success was achieved, despite significant differences in size, nature (urban/rural) and geographic dispersal, because of a shared geographic identity and desire to develop principles that reflected the region but recognized local differences. The size of the Vancouver Island Labour Relations Council allowed for input from all members. The size also provided a manageable number of existing agreements and accompanying practices to be reviewed and analyzed. Had the group been much larger, the task may have proved unmanageable as appears to be the case with CUPE's provincial initiative and is the experience with the provincial bargaining of the teachers' collective agreement.

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Within the context of the current structure (i.e., monetary mandate framework) districts indicated that the government's intentions regarding compensation must be clear. Some suggested that if there is to be provincial bargaining or two-tiered bargaining it should be restricted to compensation matters. Strict compensation mandates accomplish the same objectives without structural change however.

Districts that did not have CUPE representing their employees saw no need to change the bargaining structure. School District No. 39 (Vancouver), however, in its submission drew the commissioners' attention to the concern of having 12 support staff bargaining units and 12 collective agreements.

BCPSEA argued that there were certain prerequisites that had to be met before changes to the bargaining structure could be considered. The prerequisites were as follows.

Determining the Role of the Provincial Government

The role of the provincial government had to be clarified. Aside from having the ability to legislate a given structure, government, through its actions and initiatives, can be a centralizing or decentralizing force, whether in terms of compensation or in other broad public policy matters.

With respect to compensation, the application of the 0-0-2 compensation mandate and the use of the Accord process to secure agreement on the compensation mandate necessitated a more centralized system. While this may have been inconsistent with the history of bargaining in the sector, pursuit of this approach required a higher degree of centralization.

If the government intended to step back and allow bargaining to occur within certain parameters, a higher degree of coordination was required, as opposed to centralization. Changes in direction by the Public Sector Employers' Council with respect to public sector compensation in late 2000 necessitated a review of the employers' association's approach to negotiating compensation.

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Identifying the Rationale for Tiered Bargaining

Was there a case to be made for multiple tiered bargaining? Given the interrelationship between the different articles in a collective agreement, BCPSEA submitted that multiple tiered bargaining only served to confuse the process. If there was a fixed-compensation mandate or controls, would a "compensation only" tier lead to a different result when the compensation had already been determined as a result of the Public Sector Employers' Council compensation policy?

Experience had shown BCPSEA that when teacher bargaining issues were divided into local and provincial issues under the *Public Education Labour Relations Act*, all cost provisions were provincial with a broad definition of "cost provision." It became difficult to determine whether any substantive issue could be dealt with at the local table due to the interrelationship between the collective agreement provisions.

Recognizing the Number of Unions and Clarifying Their Roles

The sector had 53 CUPE locals, 2 independent associations (one was not a trade union) and 22 other unions representing support staff. How would a structural change affect the number of unions in the sector? A review of the submissions gives a sense of the historical ties many of these unions had to their communities.

The more tables, tiers or processes that exist, the greater the chance for confusion and stalemate as perceived responsibility invariably bounces from table to table. For example, in the rounds of bargaining that led to the inquiry it was not uncommon for school board negotiators to say, "We can't discuss it, that's a provincial matter," "We can't discuss it, that's an Accord item," or "We can't discuss that, we're not funded for it." This left the question unanswered from the union's perspective, "Where do you discuss these items?" Other processes and mixed authority leave a convenient excuse for some negotiators, resulting in confusion and frustration. BCPSEA asserted that whatever structure was chosen, ideally all bargaining of substantive matters must happen at one table.

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Assessing Each Bargaining Structure

The Korbin Commission undertook an extensive analysis of public sector bargaining structures in 1993, but made no recommendations to change the support staff structure. At the time of the release of the Korbin Commission findings in 1993, teachers in this sector had approximately five years' experience with collective bargaining. Support staff, in contrast, had bargaining relationships that dated back over 30 years in some districts.

BCPSEA took the position in its submission that the issues concerning structure needed to be analyzed further; however, given the nature of this inquiry and its legislative origin, the complexity of the relationships, the bargaining history and the nature of the sector, this analysis could not be done adequately through the *Public Education Support Staff Collective Bargaining Assistance Act* inquiry process as it was constituted at the time.

Incorporating 'Structural Adherence'

BCPSEA used the expression 'structural adherence' in their submission to make the point that any structure that was established must include mechanisms to ensure that the parties operate within the structure — the parties being employers, unions, and government. BCPSEA contended that the process invariably leads to stalemate if the parties are allowed to approach bargaining from different perspectives — one pursuing local bargaining and the other advocating and pursuing provincial bargaining, was given as an example.

The commissioners of the Industrial Inquiry Commission #1 (April 1, 2000) observed that the approach by the parties in this round of negotiations had "caused a huge rift between the parties," and that it had "resulted in a dysfunctional and stagnant bargaining process." BCPSEA believed that such a rift could have long-term consequences for productive union-management relations.

As a result, should changes be recommended, BCPSEA urged the commission to make recommendations concerning implementation, so that the parties understand their respective roles and responsibilities. This clarity, BCPSEA believed, would serve to enhance the relationship between the parties and, ultimately, the services provided to students in the education system. Ideally, a system in which the parties have input

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into its operation and structure has a greater degree of acceptance and ultimately success.

In view of the history and the long-standing industrial stability, BCPSEA believed that before any structural change was initiated as a solution to what were seen as the problems resulting from the round of bargaining at the time, further discussions between the parties were required.

Conclusion

The structure of collective bargaining is one of the most important factors shaping the processes and outcomes of bargaining. In assessing the structural options, it's necessary to examine the potential consequences of a particular choice. In general, employers are interested in reducing the use of the union strategy of winning gains from one employer and using the gains as leverage in subsequent negotiations with other employers (referred to as "whipsawing"). The successful use of this strategy may result in settlements inconsistent with established patterns and higher costs of employment.

Unions, in contrast, expect to increase their bargaining power either by putting pressure on the employer through strikes, or through whipsawing. As political institutions, unions strive to maximize their bargaining power to best represent the interests of their members.

The government also has an interest in the bargaining structure adopted. It must balance the public policy of permitting the employer and the union to pursue their respective goals through collective bargaining with the need to reduce the costs borne by society in terms of industrial conflict and out of line settlements. Government's interests are often shaped by political realities, as was the case with support staff bargaining during the 1999 - 2000 period.

The expectations of the three actors in public sector labour relations are often in conflict. The 1999 - 2000 rounds of support staff bargaining demonstrate the consequences of this conflict. The decentralized local union, local school board bargaining structure was inconsistent with the government policy of fixed compensation limits with a supplementary Accord process to encourage settlements.

While wanting centralized bargaining, the government chose to encourage the parties to change the existing structure voluntarily, and make it the choice of the employers and the unions. When faced with the employers' rejection of centralized bargaining, legislation was contemplated, but due to an unrelated political matter the government adjourned the legislature, abandoning its commitment to CUPE to legislate the structural change.

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CUPE believed that it had the support of government for both the process of bargaining and the features necessary to encourage a settlement. However, a changing political dynamic, a collective bargaining process confused by a parallel process, and the employers' rejection of the bargaining structure preferred by CUPE BC and the government resulted in the impasse. The chilling effect of continued third-party involvement and government promises that were unfulfilled paralyzed negotiations.

The belief by either party that what can be achieved outside the bargaining process would be better than what can be achieved inside the process leads to paralysis. There must be a reason to negotiate and an incentive for both sides to settle. The Accord process, however, which was an ill-defined process taking place in a politically charged environment, ended the possibility of a settlement as opposed to the original intent of encouraging settlements.

Is greater centralization the answer? John Anderson, in his 1989 article *The Structure of Collective Bargaining*, observed:

"The centralization of collective bargaining structures has often been viewed as a solution for many of the ills of the industrial relations system. It is expected to reduce industrial conflict, increase professionalization, eliminate out-of-line settlements, and, as a result, benefit the overall economy. The only cost associated with centralization is related to losses in the ability of union and management representatives to deal with local issues, to resolve internal conflicts, to provide opportunities for input, and to get consensus on priorities, bargaining strategy, and the final settlement. Thus the parties that choose a centralized bargaining structure need to consider the balance between the positive aspects of increased bargaining power and the potential negative consequences to representation of constituent interests."

It then remains a question of balance. In deciding the structure and organizing the next rounds of bargaining, employers must assess how the bargaining context has changed and how they propose to address those changes. Replicating what was done in the past will not provide the answer. In developing a working model, it's important to recognize the foundation elements:

- Accepting collective bargaining as the appropriate mechanism to determine the terms and conditions of employment, the bargaining model must ensure first, there is a reason for employer-union negotiation – there are no supplementary or parallel processes, and

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second, within the model's operation and structure there exists an incentive for both sides to settle.

- The roles and responsibilities of each of the parties (government, bargaining agents, unions, and employers) must be known, understood, and respected. Multiple processes with varying degrees of authority lead to confusion and frustration.
- Employers must reconcile the positive aspects of increased bargaining power with the potential negative consequences to representation of constituent interests when considering degrees of centralization of bargaining structures. It is a labour relations' truism that "there is strength in unity." With unity, however, individual groups must surrender a measure of free choice. They are confronted with a paradox: the value they place on their autonomy, their ability to act individually, and their accountability to their constituents may conflict with their responsibility to act together for the greater good of all members.

A majority of support staff collective agreements expire on June 30, 2003. A review of the bargaining structure including the employer/bargaining agent's internal policies and practices will be necessary well in advance of the next rounds of bargaining. The lessons arising out of the 1999-2000 rounds of support staff bargaining must be used to improve both the bargaining processes and outcomes.

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Appendix D – History of Employer Accreditation

From 1970 until the passage of the *Public Education Labour Relations Act* in 1994, and the establishment of BCPSEA as the accredited bargaining agent, there were six accredited employers' organizations in the K-12 sector:

- BC School Trustees Association (East Kootenay Labour Relations Council)
- BC School Trustees Association (West Kootenay Labour Relations Council)
- BC School Trustees Association (Okanagan Labour Relations Council)
- BC School Trustees Association (Coast 5 Range Labour Relations Council)
- Mid-Island Public Employers' Association
- Greater Victoria Labour Relations Association

BC School Trustees Association Involvement

The BC School Trustees Association represents provincial public school trustees. Membership is voluntary. The association was involved in four of the above accreditations. The following is a brief history of the association's involvement in these accreditations:

- In March 1971, the association was accredited in the Okanagan and was referred to as the BC School Trustees Association (Personnel and Employee Relations Division – Okanagan Bargaining Unit).
- In March 1971, the association was accredited in the East Kootenays and was referred to as the BC School Trustees Association (Personnel and Employee Relations Division – East Kootenay Unit).
- In June 1971, the association was accredited in the West Kootenays and was referred to as the BC School Trustees Association (Personnel and Employee Relations Division – West Kootenay Unit).

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- In September 1975, the association was accredited on the North Coast and was referred to as the BC School Trustees Association (Personnel and Employee Relations Division – Coast Range Unit).
- In the late 1970s, there was a strike/lockout in both the East and West Kootenays. In these regions, CUPE lobbied the districts to eliminate what it saw as BC School Trustees Association interference and wanted a return to local bargaining and local autonomy.
- In May 1979, at its Annual General Meeting, the BC School Trustees Association determined that it no longer wished to continue regional and local responsibility for bargaining. As a result, through an internal reorganization, they eliminated the Personnel and Employee Relations Division. The association transferred the decision-making authority and responsibility to the accredited bargaining agents while retaining the bargaining units under its corporate “umbrella.”
- With the exception of the Okanagan, all districts in the province were now responsible for their own bargaining.
- Even though the association was still the accredited bargaining agent, the other districts in the province either did their own bargaining or hired lawyers/consultants to do the bargaining.
- On July 26, 1979, as a result of the reorganization of the association, CUPE challenged the four accreditation orders.
- CUPE’s position was that the effect of the association’s internal decision (elimination of the personnel and employee relations division) had put an end to the accreditation orders. CUPE further stated that “if the employers in the four regions wished to bargain under a different structure than presently exists, it is necessary for each group of employers to apply to the Labour Relations Board (LRB) for an entirely new accreditation order.”

On page 2 of their decision (BC LRB No. L27/80) in this matter, the LRB ruled as follows:

We cannot accept CUPE’s position as valid. In the opinion of this Panel, the accredited bargaining agent was and is the BC School Trustees Association. That an arm of that organization was named in the accreditation order and that that arm actually did the collective bargaining does not alter the fundamental element of the

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order. Accordingly, the dissolution of the Personnel and Employee Relations Division has had no effect on the accreditation orders in question.

Although the Board has the authority to grant or refuse to grant accreditation orders, it has no jurisdiction to police the internal workings of accredited associations, except where breaches of Section 7(2) are concerned. How an association is organized internally, the practices it follows to conduct collective bargaining on behalf of its members and such other related matters are not within the Board's jurisdiction. Whether the association has a highly centralized bargaining structure or one that is decentralized is for the association, and not the Board, to decide. We would not, however, lend our support to any form of bargaining which is destructive of the association's structure. Therefore, we do not intend to interfere in the BC School Trustees Association's plans for the reorganization of its labour relations division.

As a result, the accreditation orders were varied by the LRB to the following:

- BC School Trustees Association (East Kootenay Labour Relations Council)
- BC School Trustees Association (West Kootenay Labour Relations Council)
- BC School Trustees Association (Okanagan Labour Relations Council)
- BC School Trustees Association (Coast 5 Range Labour Relations Council)

East Kootenay Labour Relations Council

Districts Involved:

- School District No. 1 (Ferne) – now School District No. 5 (Southeast Kootenay)
- School District No. 2 (Cranbrook) – now School District No. 5 (Southeast Kootenay)
- School District No. 3 (Kimberley) – now School District No. 6 (Rocky Mountain)
- School District No. 4 (Windermere) – now School District No. 6 (Rocky Mountain)
- School District No. 18 (Golden) – now School District No. 6 (Rocky Mountain)
- School District No. 86 (Creston-Kaslo) – now School District No. 8 (Kootenay Lake)

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Background

- East Kootenay Labour Relations Council was accredited on March 24, 1971.
- The accreditation was cancelled by the LRB effective May 17, 1984.

Observations

- The council was formed to allow the school districts to negotiate a master agreement covering the member school districts.
- In addition, the council was structured to handle such matters as grievances, arbitrations, changes in job classifications and other matters that would affect all member school districts.
- In the late 1970s, CUPE indicated that it did not want BC School Trustees Association interference and wanted local autonomy. As noted above, when the association restructured internally in 1979, CUPE took the position that the accreditation should be deemed to have dissolved.

What Happened to the Accreditation and Why?

There were three major occurrences that led to the accreditation being dissolved:

1978 Lockout

- In late July 1978, the employers locked CUPE employees out as a result of a labour dispute.
- On September 30, 1978, the employer made an offer to CUPE on the condition that, if the offer was to be binding, all of the locals had to accept it.
- On October 1, 1978, five of the six CUPE locals accepted the offer (CUPE members in School District No.1 (Fernie) turned it down).
- As a result, the lockout was not lifted for any of the six CUPE locals.

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- On October 12, 1978, when all six CUPE locals accepted, the lockout was lifted.
- The LRB confirmed in a decision (BC LRB No. 71/78) and on appeal (BC LRB No. L86/79) that the employer had this right.

School District No. 3 (Kimberley) Applies to the LRB

In 1980, School District No. 3 (Kimberley) applied to the LRB to be removed from the accreditation. On page one of its decision dated October 14, 1980 (BC LRB No. 162/80) the board stated:

While the application fails on this ground alone (time limits), the Panel has decided that in any case, the application should fail on its merits. In our view, the arguments advanced and the situation as it exists within the East Kootenay Accreditation, clearly indicate that allowing this application would violate the Board's policies in regard to the deletions from accreditation. We are convinced that the current group of employers constitutes an appropriate group for collective bargaining. They display a community of interest and a degree of homogeneity that indicates that group bargaining would be a sensible arrangement.

Four of the Six Districts Apply to the LRB

In early 1984, four of the six districts applied to the LRB to cancel the accreditation of the East Kootenay Labour Relations Council. Fernie, Kimberley, Windermere and Golden wanted it cancelled, while Cranbrook and Creston argued that it should continue.

In the LRB decision (BCLRB No 195/84), the four districts cited the following reasons:

- The last agreement provided for a 3% across-the-board increase. This increase was perceived by some of the districts as being more than they could afford to pay.
- Many members of the council felt that the bargaining structure (a lawyer, 3 council members and 12 union members paid by the employer) was costly and cumbersome.
- The council was unable to agree on changes in job classifications. Each school district made its own changes without going through the council.

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- The council had handled few grievances or arbitrations.
- There were differences in structure and operation among the six districts.
- Local autonomy: “Some members feel that the existence of the Council had removed certain rights and responsibilities from their individual boards. As these boards were accountable to the electorate, the removal of these rights and responsibilities made it difficult for the boards to meet their respective economic, social and political climate. Their negotiations with their employees must take into account the ability to pay, as well as the ability to employ. These school districts feel that the appropriate balance between these two factors can best be determined by the local unions dealing with their individual employers.”
- Lack of progress in contract negotiations: “Little or no progress made in attempts to improve contract language over the past few years.”
- Cost, in both time (significant distances between districts) and dollars (fees were \$6,000 in 1982 and \$3,500 in 1983).

This was the first time that the LRB had been faced with an application where the majority of the employers wanted the accreditation cancelled. On page 5 of its decision, the LRB asked itself what would be accomplished if the application was denied:

It does not seem likely that with the majority of the school districts seeking to disband the organization, the organization has any hope of accomplishing its agreed upon objectives, let alone revitalizing itself under its present structure...Accordingly, the application is granted and the accreditation is hereby cancelled.

West Kootenay Labour Relations Council

Districts Involved

- School District No. 7 (Nelson) – now School District No. 8 (Kootenay Lake)
- School District No. 9 (Castlegar) – now School District No. 20 (Kootenay-Columbia)
- School District No. 10 (Arrow Lakes)

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- School District No. 11 (Trail) – now School District No. 20 (Kootenay-Columbia)
- School District No. 12 (Grand Forks) – now School District No. 51 (Boundary)
- Selkirk College

Background

- Selkirk College and School District Nos. 7 (Nelson), 9 (Castlegar), 11 (Trail) and 12 (Grand Forks) formed the West Kootenay Labour Relations Council, which was accredited June 29, 1971.
- Effective February 19, 1980, School District No. 11 (Trail) and Selkirk College requested, and were granted by the LRB, deletion from the accreditation.
- Effective February 25, 1981, School District No. 10 (Arrow Lakes) was added to the accreditation.
- Effective May 20, 1992, School District No. 10 (Arrow Lakes) requested, and was granted by the LRB, deletion from the accreditation.
- School District Nos. 7 (Nelson), 9 (Castlegar) and 12 (Grand Forks) remained in the council until June 7, 1994, when the accreditation was cancelled by the *Public Education Labour Relations Act*.

Observations

- When the BC School Trustees Association restructured internally in 1979, CUPE took the position that the accreditation should be deemed to have dissolved.
- In 1998, the CUPE national representative, Ed Hagen, who served all of the West Kootenay districts, sent each school district a letter requesting that the districts consider regional bargaining.
- A master agreement was negotiated.
- Following amalgamation of school districts in 1996, there were only four districts that remained in West Kootenay: School District No. 8

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(Kootenay Lake), which had gone to the previous Nelson agreement; School District No. 10, which was not amalgamated; School District No. 20 (Kootenay-Columbia), which had gone to the previous Castlegar agreement; and School District No. 51 (Boundary), which had gone to the Grand Forks agreement. As a result of the previous master agreements, all of the agreements in West Kootenay were almost identical.

What Happened to the Accreditation and Why?

- School District No. 11 (Trail) left in February 1980. There were a number of reasons for the district's withdrawal. The main reason cited was that the district wanted to pay its trades higher wages than the other districts in the council and the other members objected.
- Selkirk College left in February 1980, asserting that a community of interest no longer existed between the college and the other employers.
- The other districts remained in the accreditation until June 7, 1994, when the *Public Education Labour Relations Act* was passed, which automatically cancelled the accreditation.

Okanagan Labour Relations Council

Districts Involved

- School District No. 13 (Kettle Valley) – now School District No. 51 (Boundary)
- School District No. 12 (Grand Forks) – now School District No. 51 (Boundary)
- School District No. 14 (Southern Okanagan) – now School District No. 53 (Okanagan Similkameen)
- School District No. 15 (Penticton) – now School District No. 67 (Okanagan Skaha)
- School District No. 77 (Summerland) – now School District No. 67 (Okanagan Skaha)
- School District No. 21 (Armstrong-Spallumcheen) – now School District No. 83 (North Okanagan-Shuswap)

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- School District No. 89 (Shuswap) – now School District No. 83 (North Okanagan-Shuswap)
- School District No. 17 (Princeton) – now School District No. 58 (Nicola-Similkameen)
- School District No. 31 (Merritt) – now School District No. 58 (Nicola-Similkameen)
- School District No. 19 (Revelstoke)
- School District No. 22 (Vernon)
- School District No. 23 (Central Okanagan)

Background

- School District Nos. 14 (Southern Okanagan), 15 (Penticton), 22 (Vernon), 23 (Central Okanagan) and 89 (Shuswap) were accredited as the Okanagan Labour Relations Council on March 16, 1971.
- Between 1971 and 1976, School District Nos. 17 (Princeton), 19 (Revelstoke), 21 (Armstrong-Spallumcheen) and 77 (Summerland) were added to the accreditation.
- Effective February 19, 1980, School District Nos. 13 (Kettle Valley) was added to the accreditation.
- Effective July 1, 1990, School District Nos. 22 (Vernon) and 23 (Central Okanagan) requested, and were granted by the LRB, deletion from the accreditation.
- As a result of the *Public Education Labour Relations Act*, the accreditation was cancelled and BCPSEA became the accredited bargaining agent.
- BCPSEA delegated its bargaining authority back to the Okanagan Labour Relations Council and its members, but any agreement was still subject to BCPSEA ratification.
- In 1996, as a result of amalgamation, former School District No. 12 (Grand Forks), now School District No. 51 (Boundary), and former School District No. 31 (Merritt), now School District No. 58 (Nicola-Similkameen), joined the Okanagan Labour Relations Council.

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Observations

- Prior to 1967, bargaining was conducted by the individual districts and locals with some informal coordination between senior school district officials. Occasionally, individual districts used the services of the BC School Trustees Association negotiators (generally in crisis situations).
- In September 1967, the national representative of CUPE wrote to the districts in the Okanagan proposing a form of area bargaining with a view to standardizing the provisions of the various agreements.
- In 1968, the first regional agreement was negotiated for School District No. 15 (Penticton), 22 (Vernon), 23 (Central Okanagan) and 89 (Shuswap). Although bargaining took place on a common basis, individual agreements were signed for each employer.
- The same pattern was repeated in 1969.
- In 1970, an 18-month agreement expiring June 1971 was negotiated and resulted in a common agreement for all four districts.
- At approximately the same time, six districts met with the teachers to discuss the possibilities of zonal bargaining for the Okanagan.
- The Okanagan Labour Relations Council was accredited in March 1971.
- One CUPE local (523) represented the employees in seven of the districts (School District No. 13 (Kettle Valley), 14 (Southern Okanagan), 15 (Penticton), 19 (Revelstoke), 21 (Armstrong-Spallumcheen), 77 (Summerland), 89 (Shuswap)) and had previously represented another two districts (School District Nos. 22 (Vernon) and 23 (Central Okanagan)).
- When BC School Trustees Association restructured internally in 1979, CUPE took the position that the accreditation should be deemed to have dissolved.
- The Okanagan Labour Relations Council has a history of having most districts in a master agreement and the remainder of districts in individual agreements.

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- The master agreement started with four districts in 1971 (School District Nos. 15 (Penticton), 22 (Vernon), 23 (Central Okanagan) and 89 (Shuswap)) and grew to as many as eight districts in the three-year agreement of 1988-1991 (School District Nos. 13 (Kettle Valley), 14 (Southern Okanagan), 15 (Penticton), 21 (Armstrong-Spallumcheen), 22 (Vernon), 23 (Central Okanagan), 77 (Summerland) and 89 (Shuswap)).
- In 1990, School District Nos. 22 (Vernon) and 23 (Central Okanagan) left the council and the accreditation was amended.
- In 1991, School District 19 (Revelstoke) was added to the master agreement, which increased the council to seven districts.
- The remainder of the agreements were negotiated individually by the council.
- After amalgamation, the council had a master agreement that covered School District Nos. 19 (Revelstoke), 53 (Okanagan Similkameen), 67 (Okanagan Skaha) and 83 (North Okanagan-Shuswap) and two individual agreements, which were negotiated separately for School District Nos. 51 (Boundary) and 58 (Nicola-Similkameen).

What Happened to the Accreditation and Why?

The only districts to withdraw from the council prior to June 7, 1994, (when the *Public Education Labour Relations Act* was passed and automatically cancelled the accreditation) were School District Nos. 22 (Vernon) and 23 (Central Okanagan). The districts withdrew on July 1, 1990. The Okanagan Labour Relations Council continued to exist under the delegated authority model permitted by BCPSEA.

Coast 5 Range Labour Relations Council

Districts Involved

- School District No. 52 (Prince Rupert)
- School District No. 54 (Bulkley Valley)
- School District No. 55 (Burns Lake)
- School District No. 88 (Terrace)

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Background

The Coast 5 Range Labour Relations Council was accredited in September 1975.

Observations

- When the BC School Trustees Association restructured internally in 1979, CUPE took the position that the accreditation should be deemed to have dissolved.
- From 1980 – 1987, all of the agreements were negotiated individually; however, they were all negotiated by the same employer negotiator.
- In 1987, the council revised its constitution. The accreditation remained in place and all collective agreements remained subject to council ratification although districts were once again given the right to negotiate their own agreements.
- After 1987, the Council was used more as a communications vehicle.

What Happened to the Accreditation and Why?

It's uncertain whether the accreditation was cancelled or amended before the *Public Education Labour Relations Act* took effect .

Mid-Island Public Employers' Association

Employers Involved

- Malaspina College
- Town of Ladysmith
- City of Nanaimo
- Regional District of Nanaimo
- School District No. 68 (Nanaimo)

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Background

- Accredited in October 1975.
- All of the employees were CUPE members.
- The number of bargaining unit members ranged from a low of 11 (Town of Ladysmith) to a high of 277 (School District No. 68 (Nanaimo)).
- Page 342 of the BC LRB decision No. 59/80 describes the employers' rationale for creating the accreditation:

It is clear that School District 68 spearheaded the formation of the present Association. At least in part, School District 68 was motivated by concerns about the lack of coordination and communications among public sector employers employing members of CUPE in the Nanaimo area in matters relating to collective bargaining. The pattern of the settlements reached between those settlements appeared to be excessive. In moving to form the Association, School District 68 sought to establish a mechanism by which the member employers could coordinate collective bargaining efforts to prevent whipsawing and leapfrogging in collective bargaining settlements.

- Pages 345 and 353 of BC LRB decision No. 59/80 describes CUPE's opposition to School District No. 68 (Nanaimo) being a member of this accreditation:

CUPE recognizes the collective bargaining advantages in having School District 68's name deleted from the accreditation and that is why CUPE has been active in past elections in supporting those candidates who spoke out against School District 68's membership in the Association.

The School District has no real community of interest with the other employers. The Board should consider the differing purposes of the member employers in the light of the statutes which created them. A School District can only be grouped appropriately with other School Districts.

- From 1975 until 1978, negotiations were conducted by one multi-employer bargaining committee.
- In 1978, subject to ratification by the association, the Mid-Island Public Employers' Association bargained on behalf of its members and conducted separate sets of negotiations for each employer.

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- In 1980, all of the employers still shared a common term for the duration of the collective agreement (January 1, 1979 – December 31, 1980).

What Happened to the Accreditation and Why?

In 1980, School District No 68 applied to withdraw from the council. This application was denied by the LRB in its decision dated August 15, 1980.

In the LRB decision, School District No. 68 (Nanaimo) provided the following reasons to withdraw from this accreditation:

- Membership in the accreditation had not been uniformly supported over the years by the trustees. Since 1975, many of those who sought election as trustees voiced opposition to such membership or called it into question.
- Membership locked the district into an “adversarial approach (sic) which is inappropriate.” They wished to try other innovative approaches to collective bargaining.
- Many of the jobs were not common to or parallel with the jobs of the other employers.
- Disputes by the other employers could result in schools being closed.
- The manner in which School District No. 68 acquires its funding is different from the other employers.
- The community of interest is different — the employees of the school district all work in support of the delivery of educational services to children.
- The school district was prohibited under the *School Act* to delegate authority over collective bargaining.
- It would be quite different if School District No. 68 (Nanaimo) bargained in an association whose membership was comprised of other school districts only. The district would prefer such an association because all of the employers would be facing the same risks and problems.

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The LRB denied the school district's application to be removed from the accreditation. On pages 356, 359 and 360, the LRB concludes:

From the objective evidence, we conclude that the performance of the Association is beyond reproach and that the Board's original decision to grant the accreditation order has been well tested and clearly proven to be a proper decision within the framework of the Labour Code.

We have no doubt that our decision to deny the application may cause some discomfort to those members of the Board of School Trustees who took a position during their election campaigns against continuing the School District's membership in the Association. However, we are satisfied that fidelity to our own statutory mandate requires us to disregard that possibility. We are confident that the Legislature intended that this Board should arrive at its decisions on the relatively firm ground of established labour relations policies, not on the more precarious footings afforded by political planks which are positioned and repositioned by elected representatives.

The school district did ultimately withdraw from the accreditation.

Greater Victoria Labour Relations Association

Employers Involved

- School District No. 61 (Greater Victoria)
- Capital Regional District
- Corporation of the City of Victoria
- Corporation of the Township of Esquimalt
- Corporation of the District of Oak Bay
- Corporation of the District of Saanich

Background

- Accredited November 8, 1976.
- Approximately 25,000 employees.
- 91% CUPE.
- Involved all unionized employees except police and teachers.
- School district was the largest of the six employers.

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Why was the Accreditation Created?

- To conduct collective bargaining on behalf of its members.
- To assist in the administration of collective agreements.
- To establish policies for the content, administration and interpretation of collective agreements.
- To advise on grievances and to assist members in any arbitrations.
- To initiate and maintain liaison with other employer groups.
- To conduct research and compile and distribute statistical and other information.
- On pages 6, 14 and 15 of the LRB decision (BC LRB No. 74/76) the board stated:

For the most part the employers have faced the same set of negotiators and have had to contend with a single union strategy. Simply stated, that strategy was to concentrate on one employer in an effort to obtain a settlement, leaving the other employers to wait in the wings. Because of the inability of the employers to bargain jointly, this was all that they could do. The result was described by the Mayor of Oak Bay as “collective waiting,” as distinct from “collective bargaining.” Given these conditions, the Association submits that there can be no collective bargaining except with those employers the unions wish to isolate.

Another submission by Counsel for the Unions was that there exists no countervailing power on the side of the employees, and that the CUPE Locals are notorious for independent action. While the Panel readily agrees that CUPE Locals are capable of independent behaviour from time to time, it is plain that they are equally capable of closing ranks, at least where collective bargaining is concerned. The uncontroverted evidence is that the unions employed the same team of negotiators and pursued a single bargaining strategy in recent collective bargaining negotiations. Indeed, commitment to that strategy produced the “collective waiting” result that certain of the employers complained of....There is no evidence that the addition of the school district to the municipal group represented by the Association would tip the bargaining scales heavily in favour of the employers. On the other hand, there is reason to believe that shutting out the school district from an accreditation including the municipalities would render the former more vulnerable to attack, should the several unions continue to pursue their strategy of isolating a single employer. Accordingly, the desire of the school district to join together with the municipalities in a

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formal structure concentrating their bargaining power is perfectly understandable.

- The union was not opposed to the entire accreditation, they were only opposed to the school district being part of the accreditation. On pages 1, 2 and 6 of BC LRB decision No. 74/76, CUPE listed the following:

“Inclusion would be inconsistent with the Board’s practice of granting employer accreditation only within and on a one-industry basis.”

“In the event of inclusion, there would be no countervailing power on the side of the employees.”

“... the provisions of the Public School Act do not permit the School Board to delegate or assign any of its duties to a third party.”

“Naming the School District in the Accreditation would destroy productive one-on-one bargaining enjoyed in the past between it and the Union.”

“Its members have come together not out of a community of interest but out of a desire to concentrate collective bargaining power.

In the 1981 round, the following occurred:

- The Greater Victoria Labour Relations Association negotiated on behalf of four members, including School District No. 61 (Greater Victoria), with a joint negotiating committee made up of six union locals.
- The employers’ offer was conditional on all six locals ratifying the offer.
- Five of the six locals ratified the June 10, 1981, employer offer.
- School District No. 61 (Greater Victoria) CUPE Local 947 rejected the offer.
- The employees of the five municipal locals went back to work.
- The employees of CUPE Local 947 remained on strike and attempted to picket the other three employers’ sites.
- In BC LRB decision No. 195/84, dated June 26, 1981, the LRB ruled that CUPE Local 947 was prohibited from picketing the other employers.

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What Happened to the Accreditation and Why?

- School District No. 61 (Greater Victoria) applied to the LRB to withdraw its membership from the accreditation on February 1, 1979.
- CUPE supported this application.
- In BC LRB decision No L175/80, dated October 30, 1980, the LRB denied the School District No. 61 (Greater Victoria) application on the basis that the application was one month and five days late (the employer must apply in the fourth or fifth month following execution of a collective agreement).
- School District No. 61 (Greater Victoria) was still part of the accreditation in the 1981 round.
- The school district withdrew from the accreditation December 31, 1989, based on the belief that a community of interest ceased to exist between the district and the other employers.

Existing Regional Structures

The Okanagan Labour Relations Council and the Vancouver Island Labour Relations Council were the only “groups of school boards” bargaining in a regional configuration under the BCPSEA Constitution and Bylaws.

In October 1999, School District Nos. 61 (Greater Victoria), 63 (Saanich), 64 (Gulf Islands), 68 (Nanaimo-Ladysmith), 69 (Qualicum), 71 (Comox Valley), 79 (Cowichan Valley), and 84 (Vancouver Island West) met to form a regional bargaining council to negotiate support staff collective agreements. Interested school boards subsequently formed the Vancouver Island Labour Relations Council, which applied to BCPSEA to have the individual school board delegation of authority varied to permit the council to bargain on their behalf. The variance was granted and the districts participating in the council were confirmed to be School District No. 61 (Greater Victoria), 62 (Sooke), 63 (Saanich), 64 (Gulf Islands), 69 (Qualicum), 70 (Alberni), 71 (Comox Valley), 79 (Cowichan Valley), and 84 (Vancouver Island West).

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Appendix E – Chronology of Events

Date	Event
July 9, 1993	Final Report – Commission of Inquiry into the Public Service and Public Sector (“Korbin Commission”).
July 27, 1993	<i>Public Sector Employers Act</i> is passed establishing the Public Sector Employers’ Council and employers’ associations in six sectors of the public sector: <ul style="list-style-type: none"> • Health • Social services • Education (K-12) • Colleges and institutes • Universities • Crown corporations, agencies and commissions
May 1994	British Columbia Public School Employers’ Association (BCPSEA) is formed.
June 7, 1994	<i>Public Education Labour Relations Act</i> is passed establishing BCPSEA as the accredited bargaining agent for all school districts in the province.
May - June, 1994	BCPSEA constitution and bylaws are developed in accordance with the <i>Public Education Labour Relations Act</i> .
September 16, 18, 1994	BCPSEA constitution and bylaws are approved by school boards at the BCPSEA Annual General Meeting and subsequently are approved by the Minister of Finance. The constitution and bylaws establish a delegated authority structure for support staff bargaining. A school board or groups of school boards, such as the Okanagan Labour Relations Council, would bargain directly with support staff unions. As a result, support staff bargaining continues to be the responsibility of local school boards with BCPSEA ratifying compensation matters to ensure they are consistent with the compensation guidelines established for the public sector by the Public Sector Employers’ Council.
Fall 1994	Public Sector Employers’ Council introduces compensation guidelines, which provide compensation increases of up to 1.2% per year.
June 8, 1995	BCPSEA applies at the request of the Labour Relations Board (LRB) to amend the bargaining certificates (teachers) to be consistent with the legislative requirements of the <i>Public Education Labour Relations Act</i> . The October 2, 1995 LRB decision amends the bargaining certificates.

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September 1996	A question arises as to whether the bargaining certificates have been amended for support staff in the October 2, 1995 LRB decision. The LRB indicates that such a change constitutes a 'housekeeping' matter as it did with teachers, given the <i>Public Education Labour Relations Act</i> , and advises BCPSEA to apply to the LRB.
November 1, 1996	The LRB invites submissions from support staff unions and employers on the proposed amendment to the certificates. The LRB receives many submissions from CUPE locals opposing the accreditation. Support is expressed for direct negotiation between the local and the school board.
April 1, 1996	Compensation guidelines, referred to as "Mandate I," are introduced. Mandate I covers a two-year period and is interpreted to provide 0% for the first 20 months, and an increase to a maximum of 1% of salary payroll for the subsequent 4 months. Upon completion of Mandate I, the 1.2% guidelines are in effect for terms negotiated beyond Mandate I.
June 26, 1997	The original 1.2% compensation guidelines are rescinded by the Public Sector Employers' Council and Mandate II is introduced.
October 2, 1997	Mandate II (referred to as the "Monetary Mandate Framework") is formally approved by the Public Sector Employers' Council but implementation details are not finalized. Mandate II covers a three-year period and allows for compensation increases up to a maximum of 0% in year 1, 0% in year 2, and 2% in year 3 with a wage re-opener should Mandate II be finalized with different numbers. Under the Public Sector Employers' Council guidelines, all employee groups must complete Mandate I prior to commencing Mandate II.
September - October, 1997	During September and October, 1997, BCPSEA contacts boards that were in the transition period. School districts that were made aware by BCPSEA of the rescinding of the previous guidelines, and who had not made a monetary proposal on the bargaining table prior to the contact made by BCPSEA, were not eligible to negotiate under the previous guideline increases of 1.2%.
July 29, 1998	The <i>Public Education Labour Relations Act</i> is amended to confirm, through legislation, BCPSEA's accreditation status as it relates to support staff bargaining.
Spring 1998	The Accord process is initiated by the Premier (January 1998). The government, recognizing the difficulty in achieving collective agreements in the public sector given the "0-0-2" compensation mandate, establishes a separate public policy process to assist in reaching collective agreements through the adoption of public policy initiatives which, while not collective bargaining matters, affect employment. Tony Penikett is tasked with the responsibility for the Accord process as the Chief Accord Negotiator.

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December 1998	Representatives of CUPE BC and the Public Sector Employers Council Secretariat approach BCPSEA seeking the development of a voluntary provincial bargaining structure. Consistent with the commitment of the Board of Directors to put such a request to school boards if requested by government and unions, bylaw amendments are developed for such a voluntary provincial bargaining structure.
March 22, 23, 1999	Founding meeting of the CUPE Sectoral Bargaining Committee for K-12 bargaining based on the December 7, 1998, terms of reference developed by CUPE BC in anticipation of provincial bargaining.
April 17, 1999	BCPSEA bylaw amendments are put to the Representative Council for a vote and are not accepted. Changes to the bylaws require a 2/3 majority. The vote was 87% against.
Late spring, early summer 1999	CUPE begins to table a set of common demands at each bargaining table.
July 26, 1999	CUPE issues press release, "Government Betrays CUPE Members," setting out a chronology of events concerning the government's commitment to CUPE to legislate provincial bargaining in response to the failure of school boards to agree to such a structure on April 17, 1999.
August 16, 1999	BCPSEA applies to the LRB on behalf of School District No. 20 (Kootenay-Columbia), 35 (Langley), 37 (Delta) and 42 (Maple Ridge-Pitt Meadows) asserting CUPE, by its actions, is attempting to impose a form of provincial bargaining on school districts, contrary to the <i>Labour Relations Code</i> (the Code).
October 16, 1999	Hugh Finlayson (BCPSEA) meets with a group of Vancouver Island school boards to discuss options concerning bargaining structures for support staff.
October 23, 1999	Vancouver Island Labour Relations Council is formed. Vancouver Island school boards have a history of working together and had formed a voluntary bargaining group during past rounds of teacher negotiations. The council is a voluntary regional employer bargaining structure designed to bargain with CUPE locals if the Vancouver Island CUPE locals are prepared to bargain in a regional format. The development of the council is also in response to the Public Sector Employers' Council assertion that Accord items could only be accessed with a common table ("common table equals Accords").
October 26, 1999	School District No. 79 (Cowichan Valley) applies to the LRB asserting the strike vote taken by CUPE Local 606 should be ruled invalid since the parties had not had an exchange of views with respect to all the central issues in dispute—they had not "bargained collectively."
November 1, 1999	The LRB rules that the strike vote taken by CUPE Local 606 is invalid as the parties "have not 'bargained collectively' as required...by the Code."

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November 8, 1999	BCPSEA, School District No. 20 (Kootenay-Columbia), 35 (Langley), 37 (Delta) and 42 (Maple Ridge-Pitt Meadows) and CUPE agree to have the LRB issue a Consent Order resolving the August 16, 1999, LRB application. CUPE agrees to withdraw the Sectoral Bargaining Committee 'common demands' in School District No. 35 (Langley) and 42 (Maple Ridge-Pitt Meadows) and to negotiate directly with the school districts without the Sectoral Bargaining Committee.
December 14, 1999	CUPE and the Vancouver Island Labour Relations Council representatives meet to explore the union's interest in regional bargaining.
January 8, 2000	Vancouver Island Labour Relations Council is formalized; <i>Terms of Participation</i> are adopted and a Chair is selected. Nine Vancouver Island boards form the council.
January 12, 2000	Chief Accord Negotiator Tony Penikett meets with CUPE and BCPSEA to explain the purpose of the government Accord process. He identifies the reason for the process, distinguishes the Accord process from collective bargaining, and indicates that there will only be one Accord for the K-12 sector—hence the “common table equals Accords” position taken by PSEC. Penikett acknowledges the difference between the K-12 sector and the other parts of the public sector in that there is no common table in the K-12 sector.
January 14, 15, 2000	School District No. 75 (Mission) puts an ordinary resolution to the BCPSEA Annual General Meeting asking for membership reconsideration of the voluntary provincial bargaining model rejected at the April 17, 1999, Representative Council. An ordinary resolution cannot amend the constitution and bylaws, but only requires a simple majority to pass. The resolution does not pass.
January 19, 2000	Accord talks convene in Victoria; strikes called for in School District No. 37 (Delta), 41 (Burnaby), and 42 (Maple Ridge-Pitt Meadows).
January 20, 21, 2000	School District No. 41 (Burnaby) and No. 42 (Maple Ridge Pitt Meadows) are struck.
January 22, 23, 2000	School Districts No. 35 (Langley), 37 (Delta), 40 (New Westminister), 41 (Burnaby), 42 (Maple Ridge-Pitt Meadows), 44 (North Vancouver), and 75 (Mission) convene at the LRB offices to continue collective bargaining. Accord talks also continue at the LRB.
January 24, 2000	Interim Accord on K-12 Issues is signed. The Interim Accord establishes a series of technical working committees whose work will form the basis of a final Accord and a funding commitment for pay equity. Strikes end in School District No. 41 (Burnaby) and 42 (Maple Ridge-Pitt Meadows), and the escalation of a strike is averted in School District No. 37 (Delta).
January 28 - March 12, 2000	Interim Accord Technical Committees (Benefits Trust/Long Term Disability, Pay Equity, Job Security) meet.

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March 3, 2000	CUPE issues a press release indicating March 27 is the strike deadline for a majority of CUPE locals in the province. "With 21 successful strike votes in hand and an additional 15 potential strike votes, the CUPE K-12 Sectoral Bargaining Committee, a coordinating committee for 47 CUPE locals, today announced that March 27 is the deadline date...."
March 9, 2000	Accord discussions reconvene and continue March 11, 12, 13 in Vancouver.
March 14, 2000	Accord discussions move to Victoria and continue until March 15, after which discussions adjourn.
March 20, 2000	The Okanagan Labour Relations Council files an application with the LRB on behalf of School District No. 19 (Revelstoke), 53 (Okanagan Similkameen), 67 (Okanagan Skaha), and 83 (North Okanagan-Shuswap) asserting that the strike votes taken by CUPE Local 523 should be ruled invalid as the parties had not "bargained collectively." There had been only one day of negotiations, the day the parties exchanged proposals.
March 21, 2000	CUPE advises that they will not negotiate with the Vancouver Island Labour Relations Council unless negotiations take place in Richmond. CUPE is advised by Vancouver Island Labour Relations Council representatives that regional table negotiations should take place in the region (Vancouver Island).
March 22, 2000	The Public Sector Employers' Council Secretariat requests the Vancouver Island Labour Relations Council to accommodate CUPE's request to continue collective agreement negotiations in Richmond where CUPE has assembled its resources and the Sectoral Bargaining Committee. The Vancouver Island Labour Relations Council is assured that government will pay the employers' costs of moving their team/resources to Richmond. Reluctantly the council agrees to come to Richmond. CUPE sends out a call to other districts to travel to Richmond and continue negotiations. School boards choose not to become involved in the Richmond affair. Vancouver Island Labour Relations Council negotiations continue March 25, 26.
March 24, 2000	The LRB declares that the strike votes taken by CUPE Local 523 in the four Okanagan Labour Relations Council districts are invalid as the parties "have not 'bargained collectively' as required by the Code."
March 27, 2000	Strikes occur in 32 districts (representing 34 CUPE locals); School District No. 41 (Burnaby) follows 3 days later.
March 28, 2000	The Minister of Labour appoints an Industrial Inquiry Commission (later referred to as IIC #1) under Section 79 of the <i>Labour Relations Code</i> . Commissioners Vince Ready (arbitrator/mediator) and Irene Holden (Acting Associate Chair - Mediation) have until April 1, 2000, to make recommendations to resolve the disputes. The IIC does not have binding powers.

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March 30, 31, 2000	IIC #1 commissioners request the Vancouver Island Labour Relations Council, and CUPE requests School District No. 38 (Richmond), 39 (Vancouver), 40 (New Westminster), and 41 (Burnaby) to continue bargaining at the LRB offices. No collective agreements are concluded. Accord discussions continue but reach an impasse (certain Accord language, and benefits trust/long term disability issues). Penikett decides to create a draft Accord and provide a copy to BCPSEA and CUPE.
April 1, 2000	BCPSEA and CUPE receive the Penikett draft Accord. Limited discussions on benefits trust/long term disability again take place. IIC #1 report is submitted to the Minister of Labour.
April 2, 2000	Limited Accord discussions again occur but still no agreement is reached. Bill 7, the <i>Public Education Support Staff Collective Bargaining Assistance Act</i> is introduced and passes. Two further Industrial Inquiry commissions are established- IIC #2 (Bargaining Disputes) and IIC #3 (Bargaining Structure Inquiry).
April 3, 2000	Vince Ready and Irene Holden are appointed commissioners under IIC #2 to make recommendations to resolve collective bargaining disputes in 44 school districts.
April 4, 2000	Instructions are sent to the parties by the commissioners to continue collective bargaining until May 4. The parties are unable to conclude an agreement. Written submissions are due by May 16.
April 10, 2000	CUPE files an application with the LRB, and subsequently a petition with the Supreme Court of BC, concerning the authority of the Minister of Labour as it relates to the April 3, 2000, appointment of IIC #2. Specifically, CUPE objects to the requirement in the <i>Notice of Appointment</i> that the commissioners must "adhere to the strategic directions set by the <i>Public Sector Employers' Council</i> under Section 4 of the <i>Public Sector Employers Act</i> ."
April 19, 2000	The Minister of Labour re-issues the <i>Notice of Appointment</i> for IIC #2 (April 3, 2000) deleting the words "adhere to," resolving the issue of ministerial authority raised by CUPE.
April 20, 25, 2000	CUPE withdraws the LRB application on April 20 and the Supreme Court petition on April 25.
May 4, 2000	Two districts reach collective agreements resolving all of the outstanding issues (School District No. 8 (Kootenay Lake) and 87 (Stikine)).

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May 16, 2000	<p>Written submissions concerning the outstanding matters in dispute are forwarded to IIC #2 by CUPE and school boards in accordance with IIC #2 instructions.</p> <p>IIC #3 (Inquiry – Bargaining Structure) instructions are issued to the parties. Written submissions are to be received by June 16. BCPSEA to coordinate employer submissions. Hearings are scheduled for July 5 and 6.</p> <p>BCPSEA schedules a series of regional meetings to discuss structural options and submission strategies. Meetings are scheduled to conclude June 12, 2000.</p>
May 18, 2000	The Minister of Labour advises commissioners Ready and Holden that Tony Penikett, Chief Accord Negotiator, has referred the outstanding Accord matters related to benefits trust/long term disability to IIC #2 for resolution.
May 20, 21, 2000	IIC #2 commissioners direct the Vancouver Island Labour Relations Council and CUPE to continue bargaining under their auspices. It is expected that the agreement or IIC report will create a basis for resolving the other disputes.
May 30, 2000	The IIC #2 report on the dispute between the Vancouver Island Labour Relations Council employers and their respective unions is released.
June 7, 2000	The IIC #2 report on the disputes in the rest of the province is released.
June 16, 2000	Deadline for submissions concerning IIC #3 (Inquiry – Bargaining Structure). CUPE BC advises the commission that they will not be making their written submission until the fall.
July 5, 2000	IIC #3 Oral Submissions - The Operating Engineers (three locals in the province) and six school districts make oral submissions. CUPE BC and BCPSEA are advised that they will be able to make oral submissions in the fall.
August 17, 2000	The commissioners establish the final offer selection process to resolve Vancouver Island Labour Relations Council matters and indicate that this process will be used for disputes in districts covered by the <i>Public Education Support Staff Collective Bargaining Assistance Act</i> in the rest of the province.
August 31, 2000	IIC #3 deadline for commissioner's report on the recommended support staff bargaining structures is extended to November 30, 2000.
October 4, 2000	CUPE BC makes its written submission to IIC #3.
October 5, 2000	<p>IIC #3 Oral Submissions - BCPSEA, CUPE BC, School District No 36 (Surrey), Teamsters, United Brotherhood of Carpenters and nine union locals made oral submissions. CUPE BC makes its written submission.</p> <p>Nine Lower Mainland CUPE locals (Vancouver Locals 15 and 407, Burnaby Local 379, North Vancouver Local 389, New Westminster Local 409, Coquitlam Local 561, Richmond Local 716, Surrey Local 728, Delta Local 1091), and CUPE Local 801 Sunshine Coast, CUPE Local 211. Vancouver Island North advocate maintaining the local union-school board bargaining</p>

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	structure. CUPE BC advocates a provincial bargaining structure, indicating 40 CUPE locals supported such a model.
October 27, 2000	Commissioners decide final offer selection for the Vancouver Island Labour Relations Council regarding the four-hour minimum work day.
October 27, 2000	Commissioners decide final offer selection for the Vancouver Island Labour Relations Council regarding use of the general wage increase from the IIC #2 Report to purchase additional benefits (benefit improvements and benefit premium (cost sharing) changes).
November 17, 2000	After a series of discussions between CUPE and BCPSEA to establish the terms and structure of the benefits trust created by the Public Sector Accord on K-12 Issues, CUPE refers outstanding Accord matters to the commissioners.
November 23, 2000	BCPSEA advises commissioners of their willingness to participate in mediation facilitated by the commissioners on a "without prejudice" basis to its position concerning the jurisdiction of the commission to become involved in resolving Accord matters.
November 24, 2000	Commissioners advise the Minister of Labour that the November 30, 2000 deadline for the IIC #3 recommendations on support staff bargaining structure will not be met.
November /December, 2000	School districts and CUPE locals continue to meet to resolve local collective agreements. Matters continue to be referred to the commission and be resolved through final offer selection.
January 4, 5, 2001	Commissioners agree to "assist the parties in trying to resolve" issues concerning the benefits trust. Parties' positions requested in writing by Jan. 19, 2001, and a meeting to discuss the issues is set for Feb. 1, 2001.
March 21, 2001	Commissioners provide recommendations to resolve issues concerning the benefits trust. Both CUPE and BCPSEA accept the recommendations (April 10, 2001)

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Appendix F – Support Staff Labour Disputes Since 1990

The table below lists legal job action. The second table lists illegal job action.

Table: Disputes by School District Since 1990 (excluding illegal job action)

School District No. 35 (Langley) and CUPE Locals 1260 <ul style="list-style-type: none">• from March 6-26, 1990• number of workers involved: 350• total person-days not worked: 4,900• issue: wages
School District No. 35 (Langley) and CUPE Locals 1851 <ul style="list-style-type: none">• from March 6-26, 1990• number of workers involved: 200• total person-days not worked: 2,800• issue: wages
School District No. 30 (Cache Creek) and CUPE Local 733 <ul style="list-style-type: none">• from April 17-27, 1990• number of workers involved: 114• total person-days not worked: 1,030• issue: wages
School District No. 68 (Nanaimo) and CUPE Local 606 <ul style="list-style-type: none">• from August 24-26, 1992• number of workers involved: 98• total person-days not worked: 100• issue: delay in negotiations
School District No. 39 (Vancouver) and United Association of Journeymen of the Plumbing and Pipefitting Industry, Local 170 <ul style="list-style-type: none">• from April 3-4, 1993• number of workers involved: 138 (20 in bargaining unit, the others were members of bargaining units that didn't cross the picket lines)• total person-days not worked: 140• issue: contract matters

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<p>School District No. 39 (Vancouver) and Vancouver Municipal and Regional Employees' Union (now CUPE Local 15)</p> <ul style="list-style-type: none">• from May 17-31, 1993• number of workers involved: 1,140• total person-days not worked: 7,560• issue: delay in negotiations• issue was resolved by Vince Ready
<p>School District No. 88 (Terrace) and CUPE Local 2831</p> <ul style="list-style-type: none">• from May 25-31, 1993• number of workers involved: 130• total person-days not worked: 650• issue: wages
<p>School District No. 72 (Campbell River) and CUPE Local 723</p> <ul style="list-style-type: none">• from May 27 to June 4, 1993• number of workers involved: 250• total person-days not worked: 1,500• issue: job security
<p>School District No. 44 (North Vancouver) and CUPE Local 389</p> <ul style="list-style-type: none">• February 7, 1997• number of workers involved: 830• total person-days not worked: 830• issue: wages, fringe benefits
<p>School District No. 39 (Vancouver) and CUPE Local 15</p> <ul style="list-style-type: none">• rotating strikes from October 18, 1998, to February 3, 1999• number of workers involved: 1,100• total person-days not worked: 130• issue: job security, other issues
<p>School District No. 36 (Surrey) and CUPE Local 728</p> <ul style="list-style-type: none">• from November 23-25, 1999• number of workers involved: 2,450• total person-days not worked: 7,350• issue: wage adjustments, other issues
<p>School District No. 41 (Burnaby) and CUPE Local 379</p> <ul style="list-style-type: none">• from January 20-21, 2000• number of workers involved: 1,000• total person-days not worked: 1,432• issue: job security, wages
<p>School District No. 42 (Maple Ridge-Pitt Meadows) and CUPE Local 703</p> <ul style="list-style-type: none">• from January 20-21, 2000• number of workers involved: 507• total person-days not worked: 800• issue: job security, wages

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Coordinated CUPE K-12 strike action involving 32 school districts and 34 CUPE locals

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| <ul style="list-style-type: none">• from March 27-31, 2000• S.D. No. #41 (Burnaby) from March 29-31, 2000• Brought to an end by the passage of Bill 7, the <i>Public Education Support Staff Collective Bargaining Assistance Act</i>. |
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School District No. 39 (Vancouver) and IUOE Local 963
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| <ul style="list-style-type: none">• from March 29 to April 6, 2001 (Rotating)• number of workers involved: 463• total person-days not worked: 434• issue: objection to changing the staffing formulas |
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Table: Illegal Strike Action

School District No. 36 (Surrey) and CUPE Local 728

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| <ul style="list-style-type: none">• from February 1-2, 1998• number of workers involved: 150• total person-days not worked: 230• issue: job security |
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School District No. 36 (Surrey) and CUPE Local 728

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| <ul style="list-style-type: none">• May 2000 (one day)• number of workers involved: 215• total person-days not worked: n/a• issue: contracting out |
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