



## Collective Bargaining Between the BC Public School Employers' Association and the BC Teachers' Federation

September 2, 2011

### Where We Are

#### **BCTF Strike Notice and Essential Services**

As reported in *Teacher Collective Bargaining Bulletin* [No.12](#) on August 31, 2011, the BC Teachers' Federation (BCTF) served 72-hour strike notice. Under the provisions of the *Labour Relations Code* and the 2011 Essential Services Order,<sup>1</sup> teachers may commence strike activity involving the withdrawal of certain duties and non-participation in voluntary extracurricular activities (Phase 1 of the BCTF multi-phase strike plan) as early as 10:02 am on Saturday, September 3, 2011. The BCTF have stated that their Phase 1 strike will begin on the first day of school.

BCPSEA does not believe that a strike is necessary. While the BCTF has tabled an extensive set of proposals, they have not yet presented a salary proposal beyond indicating they want parity with Alberta and Ontario. Further, what they characterize as their "opening proposals" remain on the table, which we have costed at approximately \$2.1 billion worth of improvements to various leave provisions, a retirement bonus, benefits, and preparation time. This represents a 75% increase to the teachers' compensation package.

It is important to note, despite some media reports and statements by some teachers' union officials, that class size and composition are not being discussed at the bargaining table but are the subject of direct consultation between the provincial government and the BCTF as a separate process, arising from the BC Supreme Court [decision](#) of April 13, 2011.

The BCTF is striking for increased compensation, not class size.

#### **Jackson Process and the BCTF Unilateral Tabling of Provincial Matters at Local Tables: Arbitrator's Direction on the Provincial–Local Split of Issues**

On August 12, BCPSEA made a submission to the Labour Relations Board (LRB) because the BCTF failed to table a complete set of provincial matters proposals at the provincial table; the BCTF continued to allow local teachers' unions to present provincial matters proposals at local matters negotiation tables, contrary to the provincial–local split of issues as agreed between BCPSEA and the BCTF and as contained in Letter of Understanding No. 1 between the parties; and the BCTF continued to attempt to negotiate provincial matters and matters that may not be bargained at this time (including class size, class composition and staffing ratios) at local tables.

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<sup>1</sup> See our [web videos](#) for a clear description of essential services and the associated processes.

On August 15, BCPSEA and the BCTF reached an Agreement in Principle to refer [five foundation questions](#) on the provincial–local split of issues to a mutually agreed-upon arbitrator. Arbitrator Marguerite Jackson was selected.

On August 28, Arbitrator Marguerite Jackson [issued her answers](#) to the five foundation questions. In her decision, Arbitrator Jackson determined that:

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

On August 31 and September 1, BCPSEA made submissions to Arbitrator Jackson seeking her direction to the BCTF that they comply with the arbitrator’s decision of August 28 before the BCTF commences its Phase 1 strike action planned on September 6.

As reported in *Teacher Collective Bargaining Bulletin* [No. 2011-13](#), dated September 2, Arbitrator Jackson issued a further decision providing direction and associated timelines to the parties, and specifically to the BCTF and its local teachers’ associations.

The arbitrator directed that all provincial matters must be removed from local bargaining tables after September 5. In addition, the arbitrator stated that any provincial matters at local tables that are key issues should be raised by the BCTF at the provincial bargaining table — a list of items or titles should be submitted by September 5 and corresponding proposals should be tabled by September 16.

The BCTF has advised BCPSEA that they will be working through the weekend to provide us with the information required by the arbitrator. The BCTF has also confirmed that their bargaining team intends to meet with us on Monday, September 5, to present the required list. If the parties require any further clarification, we will go back to Arbitrator Jackson.

## How We Got Here

- The 2011 round of collective bargaining between the BC Public School Employers' Association (BCPSEA), the accredited bargaining agent for the province's 60 public boards of education, and the BC Teachers' Federation, the accredited bargaining agent for the province's public school teachers, commenced March 1, 2011.
- During the early stages of bargaining, the parties identified their respective bargaining themes. Shortly thereafter, the parties tabled their opening proposals.
- The BCTF proposals represent improvements to the teacher compensation package of approximately \$2 billion (a 75% increase). They have not moved off of their opening proposals.

We shared our costing methodology with the BCTF. Although the BCTF have said they don't agree with our costing, they have not come forward with any further information.

<b>BCTF Proposals</b>	<b>BCPSEA Preliminary Costing of BCTF Proposals</b>
See our website ( <a href="http://www.bcpsea.bc.ca">www.bcpsea.bc.ca</a> ) for <a href="#">details</a> on each proposal and more information on bargaining	
<b>Leave Improvements</b>	
U7 Bereavement Leave	\$80,000,000
U8 Compassionate Care Leave	\$49,000,000
U9 Discretionary Leave	\$122,000,000
U10 Leave for Third Party Care	\$80,000,000
U11 Leave for Professional Activities	\$80,000,000
U13 Pregnancy (Maternity), Parental, and Supplemental Employment Benefit (SEB) Plans	\$41,000,000
U12 Leave for Union Business	TBD
U14 Sick Leave	\$81,000,000
<b>Other Pay and Benefits Improvements</b>	
U23 Salary (the BCTF has not yet tabled a full salary proposal)	\$618,000,000
U31 Retirement Bonus	\$445,000,000
U16 Benefits	\$82,000,000
U28 TTOC Pay	\$60,000,000
U35 LOU No. 12 Remote and Rural Allowance	\$10,000,000
U30 Board Payment of College and Other Professional Fees	\$5,000,000
U19 Preparation Time	\$417,000,000

The BCPSEA proposals are intended to recognize the realities of our rapidly changing world — the changing demographic of our workforce, the effects of technology on curriculum delivery and student learning — and are designed to engage the BCTF in meaningful discussion on issues raised by school districts.

The public education system continues to operate under collective agreement language that dates, in many instances, back to the early 1990s. This language does not reflect the reality of how students learn in today’s public schools, or the ways in which teachers teach. Schools as both places of learning and working have changed considerably and will continue to change.

<b>BCPSEA Proposals</b>
See our website ( <a href="http://www.bcpsea.bc.ca">www.bcpsea.bc.ca</a> ) for <a href="#">details</a> on each proposal and more information on bargaining
Leave for Provincial Contract Negotiations
President/Officer Leave
Leave for Local, BCTF, CTF and BC College of Teachers
Sick Leave
Pregnancy/Parental Leave
Alternate School Calendar
Preparation Time
Professional Growth and Engagement
Posting and Filling, Employee Assignment and Transfer

The BCTF is characterizing many of the BCPSEA proposals as “concessions and massive contract stripping.” Our proposals do not strip provisions or rights out of the collective agreement. They are intended to recognize the changing nature of the education system while striving to ensure a balance between the rights and responsibilities of the union and the employer.

When asked if there could ever be any proposals for collective agreement improvements reflecting new employers’ interests that would be acceptable to the BCTF, their spokesperson responded that they “didn’t know if that was possible.”

- The BCTF characterization of our proposals was followed by the push for a strike vote, which was held June 24, 27, and 28. On June 29, the BCTF announced that, of those BCTF members who voted, 90% voted in favour of strike action.
- On June 29, after 25 bargaining sessions, the parties adjourned bargaining with a scheduled return date of August 23.
- On July 26, 2011 the Labour Relations Board (LRB) released its decision ([B132/2011](#)) regarding the designation of essential services in relation to the BCTF’s Phase 1 strike plan. The LRB decision determines the activities teachers are permitted to withdraw under Phase 1.
- The transmission of attendance remained in dispute. On August 5 the LRB issued a further decision ([B143/2011](#)) ordering that teachers are “required to take attendance in the normal

manner and the records are to be transmitted or delivered to the school office by teachers in the normal or usual manner.”

- Bargaining resumed August 23.
- The BCTF served 72-hour strike notice on August 31. Under the provisions of the *Labour Relations Code* and the 2011 Essential Services Order, teachers may commence strike activity involving the withdrawal of certain duties and non-participation in voluntary extracurricular activities (Phase 1 strike activity) as early as 10:02 am on Saturday, September 3, 2011.

## Not Structure Again

The current approach to bargaining structure for public school employer–public school teacher collective bargaining has been pointed to again as an impediment to productive negotiations. An [editorial](#) published in the *Victoria Times-Colonist* on August 31 notes:

But fundamentally, a new approach to bargaining is needed. The parties have been offered useful blueprints in the past, but failed to act.

In 2006, mediator Vince Ready recommended a new bargaining approach for this round. Both parties should establish their objectives eight months before the contract expires, he said. A facilitator/mediator should immediately begin to meet with them in negotiating sessions. A senior government representative should be at the table. And the parties should develop an agreed-upon statement of facts about the cost of compensation and benefits, recruitment concerns and other issues.

Don Wright, who reviewed bargaining in 2004, recommended another alternative. If negotiations failed, he said, a conciliator should be appointed. If conciliation was unsuccessful, both sides would submit their final proposals and the conciliator would pick one. That would ensure pragmatism and compromise; if one side demanded too much, it would get nothing.

Instead, the BCTF and government persist with a bargaining approach that is designed to fail.

Before the current round of negotiations commenced, in a letter to the BCTF, BCPSEA proposed that the parties adopt the model recommended by respected mediator Vince Ready in his 2007 [Final Report](#). The BCTF advised that they did not want to adopt the recommended approach.

It is worthwhile to note Mr. Ready’s observations as contained in his Final Report:

I have, therefore, concluded that, in the circumstances, it is not the format or process of collective bargaining which will help achieve a collective agreement. Instead, it is necessary to provide support to the parties in their desire to achieve a collective agreement. The presence of a Facilitator/Mediator and the presence of a Government official provided that support.

Having just achieved such a singular success, I am reluctant to recommend a wholesale change in the process of collective bargaining. Imposing solutions for collective bargaining which have worked in other jurisdictions may very well disturb the commitment of the parties which was evident during 2006. This would be contrary to the public interest.