

Letter of Understanding (LOU) No. 17 Memorandum of Agreement (MoA) Implementation: Union Data Requests

Background

BCPSEA has been advised by various school districts that, in the months following the conclusion of the Letter of Understanding (LoU) No. 17 Memorandum of Agreement (MoA), their local unions have requested a significant amount of district-level and school-level data that relate to the issues of class size, class composition and non-enrolling teacher ratios. It is BCPSEA's understanding that, through these requests, many local unions have asked to be provided with some or all of the following data:

- The number of students in the district
- The number of English Language Learner (ELL) students in the district
- The number of students with special education needs in the district
- The grade(s) and subject areas of all classes at each school in the district
- The number of students in each class in the district
- The number of students in each class that are either the subject of an Individual Education Plan (IEP) or the subject of a Ministry of Education special education designation and, in some cases, the specific designation code that is applicable.

Privacy Concerns Raised by Data Requests

BCPSEA does not generally provide advice to school districts regarding information and privacy matters. However, in this case, because of the volume of information requests received from local unions and their apparent connection to the recent restoration of class size and composition language, BCPSEA has cautioned districts that some of the data that has been requested may include student personal information that is subject to statutory privacy protections. The specific data that BCPSEA sees as raising privacy concerns is what we have described as "school-level class composition data," which includes information about the number of students *in a specific class at a specific school* that are either the subject of an IEP or Ministry of Education special education designation.

BCPSEA believes that school-level class composition data raises privacy concerns because it could be combined with other available information to reveal the identity of students that are the subject of an IEP or Ministry of Education special education designation. As a result, BCPSEA has advised districts to only share these data with their local union where:

1. the local union requires the data to assess the district's compliance with restored class composition language, including whether "best efforts" have been made to comply with this language as required by the LOU No.17 MoA, and;
2. the district and local union have signed an Information Sharing Agreement that establishes safeguards around how the data will be collected, used, and disclosed.

In order to facilitate the sharing of school-level class composition data, BCPSEA has developed an Information Sharing Agreement template which can be used by districts and their local unions to ensure that appropriate privacy protections are in place *before* school-level composition data is shared. This template is attached to this email in Microsoft Word format.

Data That Do Not Raise Privacy Concerns

BCPSEA does not believe that similar privacy concerns apply to the less-detailed types of data that local unions have been requesting. These types of data include district-level student enrollment data — including *aggregate* data regarding the number of students with special education needs and ELL designations within the district (as opposed to within a school or class) — and school-level class size data that does not identify IEP or Ministry of Education designated students. The LoU No. 17 Memorandum of Agreement does not create any new obligations to share or not share these types of information. Therefore, BCPSEA is advising districts to follow their regular information sharing practices with respect to these types of data.

Common Questions

My district does not have class composition language. Should we be sharing school-level class composition data?

BCPSEA's advice is that school-level class composition data should only be shared with local unions on a "need to know" basis because of the privacy issues associated with this type of information. This means that, if your restored language includes class composition provisions, only the minimum level of information necessary to assess the district's compliance with this language should be provided to the union. For those districts that do not have class composition language, BCPSEA's advice is that there is no need to share school-level class composition data with your local union. This does not mean that aggregate district-level student designation data should not be shared, as this information may be necessary to assess compliance with non-enrolling teacher ratio provisions.

Should all district employees be required to sign an Information Sharing Agreement before they are provided with school-level class composition data?

No. It is not necessary to have district employees sign an Information Sharing Agreement before providing them with school-level class composition data. Sharing information with district employees for the purposes of delivering educational services to students is appropriate, and employees are already subject to employment obligations to ensure the appropriate use and security of this information. However, sharing this type of information with third parties, such as a local union, for purposes not directly related to providing services to students, does attract greater privacy concerns. This is why additional privacy protections are required in the form of ensuring disclosure is limited to information that is needed by the union and entering into an Information Sharing Agreement requiring the union to provide undertakings to maintain the security and privacy of the data.

Next Steps

As indicated above, BCPSEA is advising districts to follow their usual practices with respect to data requests from local unions that do not involve school-level class composition data. Where an information request does seek the disclosure of school-level class composition data, this information should only be made available to a local union where it is required to assess the district's compliance with class composition language, including whether "best efforts" have been made to comply with this language as required by the LOU#17 MoA, and an Information Sharing Agreement in place.

Questions

If you have any questions, please contact your BCPSEA liaison.

Attachment: Information Sharing Agreement Template