

2019-04

July 12, 2019

By E-mail: Six Pages

Report: BCPSEA Board of Directors Meeting

The BCPSEA Board of Directors met on Friday, June 28, 2019 at the BCPSEA offices at 300 – 2889 East 12th Avenue, Vancouver, BC.

Following is an overview of key aspects of the Board's discussions.

❖ Legal and Arbitration Update

▪ Employment Practices Liability Program (EPLP)

As part of the transition of administration from Risk Management to BCPSEA, we have completed our process to select a more robust software system to track and administer the program and are proceeding with implementation. BCPSEA has established a project team, including representatives from 10 school districts who have volunteered to provide feedback, to configure and implement the new system, and train districts on the new system before the end of the year.

▪ Arbitration Update

The Board received an update on significant arbitrations in the sector, including:

○ Failure to Fill

On June 4, 2019, the Labour Relations Board denied BCPSEA's application for leave to further appeal Arbitrator Glougie's arbitration decision related to "failures to fill" in School District No. 33 (Chilliwack). With the appeal process now complete, BCPSEA and the BCTF will continue to work on resolving the BCTF's provincial grievance alleging that school districts violated the collective agreement by failing to hire sufficient teachers. The parties met for mediation on June 17, 2019 and have agreed to the following process to determine the appropriate remedy for the violations of the collective agreement found by Arbitrator Glougie:

- Preliminary issues on remedy will be argued by written submissions, to be concluded August 23, 2019.
- An oral hearing with any required evidence on the appropriate remedy to be heard September 16-19 and October 8-11, 2019.

The arbitrator's decisions on whether there are violations for "failures to fill" under other collective agreement language regarding replacement and coverage are expected to be rendered in the near future:

- SD No. 73 (Kamloops/Thompson)’s collective agreement requires replacement of absent teachers and prohibits coverage of classes by other teachers “subject to the availability of a TTOC”. The hearing on this language (which affects four other districts) took place February 19-22, 2019.
- SD No. 70 (Alberni) has collective agreement language requiring that teachers are “normally” not required to replace an absent classroom teacher and teachers will “in normal circumstances” be replaced with a TTOC. The hearing of this language took place April 8-12, 2019. This decision will affect two other districts.

After the above process is concluded, BCPSEA and the BCTF will work to apply these decisions to resolve the 27 outstanding disputes under the provincial grievance, based on the relevant facts and applicable collective agreement language.

- **Restored Class Size and Composition Language**

On April 24, 2019, Arbitrator Jackson denied the BCTF/North Vancouver Teachers’ Association’s grievance that restored class size and, alternatively, composition language to an alternate secondary school. Specifically, the arbitrator agreed with BCPSEA that the restored class size limit for Learning Assistance Centre (LAC) classes did not apply to classes at Mountainside Secondary School, which offers a distinct program and where there was no evidence the parties intended to apply class size and composition limits at the time they were bargained.

The arbitration decision is a significant win for districts. It establishes that restored class size and composition limits do not automatically apply to all classes, teachers, and schools in a school district. Depending on each district’s unique restored language, past practice, and bargaining history, specific programs, schools or classes may not be subject to restored class and composition language.

- **Upcoming Arbitration: Students with Exceptional Educational Needs**

This upcoming arbitration will also be of interest to the sector. On July 15-19, 2019, Arbitrator Fleming will hear the second grievance out of SD No. 23 (Central Okanagan) regarding its criteria and process to identify students with exceptional educational needs under the restored language. The collective agreement provides that students may be referred to the Superintendent to identify students with exceptional educational needs. The union disputes that the process by which this identification and the supports which follow for the students is consistent with the collective agreement. The arbitration will provide guidance on the proper interpretation of the restored language around school-based and district-based ancillary processes.

❖ WorkSafeBC Issues

Current WorkSafeBC/occupational health and safety initiatives were discussed by the Board.

- **K-12 Violence Working Group**

WorkSafeBC has established a K-12 Violence Working Group, tasked with defining violence in the education sector and creating tools to address issues related to violence in the workplace.

The group includes school district health and safety professionals, principals, superintendents, union representatives, and representatives from WorkSafeBC. BCPSEA does not currently have a subject matter expert in this area and we are exploring the possibility of adding an in-house resource.

- **Violence Prevention Initiative**

A Violence Prevention Initiative focused on the K-12 sector is also planned by WorkSafeBC, however, no launch date has been set. As noted in the minutes of the January 29 meeting of the Violence in Education Working Group, “The violence prevention letter campaign would go out to every school district and would be similar to the Dust Collectors and Asbestos campaigns. The inspection portion of the campaign would happen after the employees have the tools needed to recognize and report violence and how to comply with WorkSafeBC regulations. However, if there is a call for inspection before this time, or an incident is reported, WorkSafeBC will come in as a regulator and will act according to the regulation.”

- **Review of WorkSafeBC Policy**

Paul Petrie, former Vice-Chair of the Workers’ Compensation Appeal Tribunal, was retained in January 2018 to conduct a review of WorkSafeBC Rehabilitation and Claims Services policies and to identify policy options for consideration by the Board of Directors to restore a worker-centred approach. His report, *Restoring the Balance — A Worker-Centred Approach to Workers’ Compensation Policy*, was completed March 31, 2018 and includes 41 recommendations under the following headings:

- A Worker-Centred Approach to Decision-Making
- Medical Evidence and Evaluation of Disability
- Vocational Rehabilitation and Return to Work Support
- Permanent Disability Entitlement
- Mental Disorders.

The report includes significant recommendations in the areas of chronic pain, mental disorders, and loss of earnings. It is our understanding that WorkSafeBC is currently reviewing the recommendations — WorkSafeBC has indicated that “as per standard process on policy development, formal stakeholder consultation will be undertaken on potential policy amendments.”

- **Review of the BC Workers’ Compensation System**

On April 3, 2019, retired labour lawyer Janet Patterson was appointed to undertake a formal review of the workers’ compensation system. As noted in the government news release announcing the review, “...There will be a public engagement process to ensure that Patterson’s review is informed by feedback from employers, labour organizations and injured workers. The review will consider any steps that may be required to increase the confidence of workers and employers in the system, and whether there are any other improvements that could be made. A report, including possible recommendations, will be delivered to government by Sept. 30, 2019.”

❖ **Collective Bargaining**

- **Provincial Bargaining with the BC Teachers’ Federation**

The Board received a verbal update on collective bargaining with the BC Teachers’ Federation from CEO Renzo Del Negro; Board of Directors representatives Alan Chell and Terry Allen; and Keith Godin of the Ministry of Education, who is a government Director on the BCPSEA Board and is also the Ministry representative on the bargaining team.

Arising from concern regarding the pace of negotiations, on June 17 the Board passed a resolution to apply to the Labour Relations Board for mediation under section 74.1 of the *Labour Relations Code*. The Board discussed the upcoming mediation process — with mediator David

Schaub, appointed by the Labour Relations Board — scheduled for July 2, 3, 10, 11, and 12. These are the last scheduled dates until August 21, when mediation resumes. It was discussed that BCPSEA put forward dates through the full month of July; the dates made available by the mediator after discussion with the BCTF did not include dates between July 12 and August 21.

- **Support Staff Bargaining**

The Board discussed the importance of those districts still negotiating with their support staff unions to communicate with the appropriate BCPSEA liaison prior to tabling any cost item, to ensure that proposals/signed-off clauses are not rejected by the Public Sector Employers' Council (PSEC) Secretariat because they do not meet the parameters of the Service Improvement Allocation (SIA) of PSEC Mandate 2019.

As set out in the BCPSEA *Support Staff Bargaining 2019: Guide to Local Bargaining* distributed to school districts on October 2, 2018, "Any bargaining proposal that has either a cost or a savings must have supporting costing information provided to BCPSEA. BCPSEA will incorporate those details into the format required for PSEC Secretariat reporting on behalf of the district. Approval of costing — specifically, that additional costs are in accordance with Mandate 2019 — is required prior to local ratification."

- ❖ **Exempt Staff**

The Board discussed several matters related to exempt staff including:

- the submission process for proposed compensation increases under the Public Sector Employers' Council (PSEC) *Accountable Compensation* policy direction for calendar 2019
- the annual executive disclosure process and the ongoing requirement to report "senior employee" compensation in the PSEC LIGER database,
- the benefits review project, and
- the BC Principals' and Vice Principals' Association voluntary negotiating agency initiative.

- **Benefits Review Project**

On April 23, 2019, BCPSEA advised school districts that we had obtained approval through the Public Sector Employers' Council Secretariat from the Minister Responsible for the *Public Sector Employers Act* (the Minister of Finance) to proceed to work with school districts to effect improvements to the extended health benefits plan (EHB) and dental plan for district-based executive and exempt staff, and principals/vice principals. The parameters of the Minister's approval included limiting amendments to bring these plans to the level of the plans in place for public school teachers, and clarifying that amendments are at the discretion of the individual board of education and must be accommodated within existing employer budgets. We further clarified that where existing exempt staff and principal/vice principal EHB and/or dental plans currently meet or exceed the teachers' plans in the district, there is no opportunity to effect further amendments to the plans at this time. This means that there will be no changes to the plans currently in place for some districts.

BCPSEA is working with Morneau Shepell, the BCPSEA Benefits Buying Group administrator, which has been in contact with each school district to provide the district's specific plan design comparison and associated cost estimate to bring these plans to the level of the teachers' plans, where indicated.

Pacific Blue Cross requested a common implementation date to effect these changes for districts, as well as sufficient lead time prior to the implementation date to undertake the

necessary work. Districts were therefore provided with a timeline of June 21 to advise Morneau Shepell whether they wish to amend their plans to mirror the teachers' plans.

The Board was advised that as of this Board meeting date, 34 districts had advised that they are taking the opportunity to amend their plans to align with the teachers' plan design. Districts have been advised that Pacific Blue Cross will implement the changes as at September 1, 2019.

- **BCPVPA Voluntary Negotiating Agency Initiative**

Arising from the direction of the members at AGM 25 to obtain further information on this initiative and report back to the membership, the Board received an update on meetings to date and upcoming meetings scheduled for the end of August, which will inform the report to be brought back to the members at AGM 26 in January 2020.

- ❖ **Make a Future**

The Board received a year-end summary of Make a Future activities and initiatives:

- Make a Future staff participated in 22 teacher and "other" career fairs, including 11 held outside of BC
- Online Presence
 - Continued ad campaigns on Indeed.com, Facebook.com and Google
 - Grew our following with email and social media marketing, facilitating exposure of our jobs directly to 5,300 email newsletter subscribers
 - Facebook: The Make a Future *Teach in BC* video ad campaign reached nearly 40,000 users on Facebook and generated nearly 1.8 million impressions with our campaign targeting Canadian teachers outside of BC
 - Twitter posts reached an average of 101,000 users monthly; we have 5,300 fans on Twitter
- Requests for Ad Plans, Work Permit Information, and Recruitment Advice
 - 763 ad plan requests this year
 - 60 direct candidate referrals to school districts since November (75% from Ontario)
- Independent Schools
 - Started adding schools on April 1
 - 150 independent schools are currently signed on to use Make a Future
 - Over 100 independent First Nations schools use Makeafuture.ca for job postings
 - 11 BC offshore school employers use Makeafuture.ca as their job board
- Joint Projects with the BC School Superintendents' Association
 - Created a HR Portal as a resource for BC school districts
 - Developed content for recruitment and selection
 - Developing a new feature that will allow people to develop customized selection criteria and interview question lists to download from our site
- Website Updates
 - Updated our job board to make it more user-friendly when searching for jobs; now mobile responsive on all devices and users are finding it easier to find job openings
 - BC passport was launched this year, which allows users to apply with a single application.

The Board was also provided with an overview of Make a Future's planned initiatives for the 2019-2020 school year.

❖ **Labour Market Partnership Report**

The Board received an update on the status of the Labour Market Partnership report.

BCPSEA successfully obtained a grant from the Labour Market Partnership (LMP) program (LMP), administered by the Ministry of Advanced Education, Skills and Training, to work on a sector-wide Labour Market Information Study. This Phase 2 LMP study focused on producing labour market information to inform and support the design of strategies to address the underlying causes of labour shortages being experienced across the BC K-12 public school sector through a detailed analysis of current labour market conditions and trends in British Columbia.

BCPSEA completed the *Sustainable Teacher Workforce Labour Market Project: Sector Labour Market Partnership Report*, which is now with the Ministry of Advanced Education. The information obtained provided a comprehensive understanding of the gaps in data and developed key recommendations on labour market challenges for TTOCs, specialist positions, Indigenous teachers, and teachers in rural and remote communities.

Funding for this initiative was provided through the Sector Labour Market Partnership program administered through the Ministry of Advanced Education, Skills and Training. As part of this program, they provide funding for projects that are sector-based to address workforce development challenges.

We have been advised by the Ministry of Advanced Education, Skills and Training that in order to receive funding for our Phase Three project, the initiatives cannot be duplicated elsewhere in the province.

The Ministry of Education has expressed interest in moving forward with the development of a strategic workforce development plan, which would be holistic in nature, for the education sector.

As the Ministry's plan may involve strategies that we had articulated in our Phase Three planning, the Ministry of Advanced Education, Skills and Training has informed us that they will not be supporting our Phase Three project at this time.

It is our understanding that the Ministry of Education is doing some preliminary work on how to approach this strategic workforce development plan and anticipates sharing information on this in the future.

❖ **Next Board Meeting**

The next regularly scheduled Board meeting will be held September 4, 2019. The Board will also convene meetings on an as needed basis to consider tentative local school district – local union collective agreements submitted to BCPSEA for ratification by the Board.