

BCPSEA Mid-Contract Modification Processes

There have been numerous Mid-Contract Modifications during the term of the current Provincial Collective Agreement between the BC Public School Employers' Association and the BC Teachers' Federation. Many were reached during each district's participation in "melding" their 2006-2011 working document with local, BCTF, and BCPSEA representatives. We can report that 54 out of 60 school districts have now finalized their 2006-2011 working documents.

The established process for Mid-Contract Modifications, as set out in the BCPSEA *Teacher Collective Agreement Administration Manual*, can be found at:

<http://www.bcpsea.bc.ca/access/publications/manuals/tcaamanual/preamble/responsibilities.pdf>

BCPSEA would like to take this opportunity to remind school districts of the following considerations regarding Mid-Contract Modifications:

1. What constitutes a Mid-Contract Modification?

BCPSEA considers a Mid-Contract Modification to include:

- a. Any amendment to the collective agreement that alters an existing term and condition through addition, omission, or correction.
- b. Any agreement to waive the provisions of the agreement for the term of the agreement or another specified period.
- c. Any variation to an established existing term and condition of employment that provides an exception to the rule.
- d. Letters of understanding (LOU) or memoranda of agreement (MOA) dealing with procedural or interpretive issues relating to the collective agreement.

A grievance settlement may constitute a modification if it includes any of the above.

The BCTF procedures for Mid-Contract Modifications also set out definitions of what constitutes a Mid-Contract Modification. However, those definitions exclude grievance settlements. Regardless of that BCTF position, it is BCPSEA's position that a grievance settlement may constitute a Mid-Contract Modifications if it includes any of the BCPSEA definitions.

2. What criteria are used by BCPSEA to approve Mid-Contract Modifications?

BCPSEA uses the following criteria to approve Mid-Contract Modifications:

1. The Mid-Contract Modification presents no additional cost to the board, unless it meets an operational need for the board that will offset the cost.
2. The Mid-Contract Modification does not undermine the position of school districts generally or a provincial bargaining objective.
3. The local has or obtains BCTF approval to proceed.
4. The district's agreement is conditional on BCPSEA approval of the agreement.

In addition, in a bargaining year, authority to negotiate Mid-Contract Modifications will only be granted if there is an operational imperative for making a change.

3. When should districts contact BCPSEA regarding Mid-Contract Modifications?

Districts should contact BCPSEA as soon as they are contemplating entering into Mid-Contract Modification discussions with the local union, or upon being approached by the local union to enter into such discussions. Recall that the BCPSEA definition of what constitutes a Mid-Contract Modification is quite broad, and may encompass matters or changes that, while not modifying the actual collective agreement language, address procedural or interpretive issues.

BCPSEA has encountered instances where districts and their local unions have agreed to discuss matters that may lead to a Mid-Contract Modification or have actually entered into a Mid-Contract Modification without receiving approval from, or consulting with, the provincial parties. This lack of pre-approval and consultation has resulted in both the BCTF and BCPSEA refusing to sign Mid-Contract Modifications that have been agreed to at the local level.

BCPSEA wishes to eliminate these types of occurrences. In order to achieve this objective, it is strongly recommended that districts engage BCPSEA, and locals engage the BCTF, at the earliest possible opportunity and continuously throughout the local discussions, such that each local party has fully consulted with their provincial party and received provincial approval before signing the Mid-Contract Modification locally. If this process is accomplished, the provincial signing process becomes more of an administrative signing process rather than assessing the merits of the Mid-Contract Modification itself.

This recommended process has been followed by many districts in past years and more recently in "melding" the 2006-2011 working documents. By having BCPSEA engaged in this manner, we are pleased to report that BCPSEA has been able to approve all but a very few of the Mid-Contract Modifications reached during the "melding" process.

4. Does the upcoming round of collective bargaining impact districts' abilities to enter into Mid-Contract Modification discussions?

Yes. In a bargaining year, up to the formal commencement of collective bargaining, Mid-Contract Modifications will only be approved if there is an operational imperative for making

a change. This criterion will therefore be in place **immediately** and in force until the parties formally commence collective bargaining.

Formal collective bargaining may commence as early as March 1, 2011. After the commencement of formal collective bargaining, BCPSEA will suspend the approval of Mid-Contract Modifications until the conclusion of collective bargaining. Districts are advised not to enter into Mid-Contract Modifications during the collective bargaining period.

As a result, if districts wish to discuss Mid-Contract Modifications that have an operational imperative, BCPSEA advises such districts to contact BCPSEA early in the 2010-2011 school year.

5. Does the BCTF approach for bargaining in 2011 affect Mid-Contract Modification discussions?

The BCTF is proposing to engage in greater local negotiations as part of the coming round of collective bargaining. BCPSEA has been engaged in discussions with the BCTF regarding this issue and, on April 30, 2010, sent a “Teacher–Public School Employer Bargaining 2011 — Survey and Background” to all school districts to capture preliminary thoughts as the preparation phase for bargaining 2011 commences.

As a result of the BCTF approach, districts may see increased requests from their local unions to engage in Mid-Contract Modifications during the 2010-2011 school year.

If your district does see an increase in requests to discuss Mid-Contract Modifications please contact your BCPSEA labour relations liaison to enable BCPSEA to track this trend. In addition, the BCPSEA criteria, as set out above, remain in place for any and all Mid-Contract Modification discussions.

Questions or Comments

If you have any questions or comments regarding this bulletin, including regarding the review of the current BCPSEA Mid-Contract Modification process, please contact Laura Buchanan at laurab@bcpsea.bc.ca or 604 730 4522.