

# Report *from the Chair*

BRITISH COLUMBIA PUBLIC SCHOOL EMPLOYERS' ASSOCIATION

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## Focus on Bargaining

As we head into the final weeks of the school year, many matters continue to challenge us all in public education. As you all know, we are well into the collective bargaining cycle with both the BC Teachers' Federation (BCTF) and our support staff unions. We continue to work with districts through the bargaining processes to ensure that negotiated agreements emerge as they did in 2006. In fulfilling our statutory mandate as an employers' association, BCPSEA will balance the interests of boards of education as employers with those of government as makers of public policy.

At our Representative Council and Annual General Meeting in January we solidified our bargaining foundations. At that time, we indicated that it might be necessary to get back together prior to major bargaining milestones, such as the exchange of proposals. We have set aside one day in May to meet again so that we can fully align public policy with employment implications in public education. For efficiency, we have linked our meeting to the Ministry of Education's meeting on May 19.

The first day (May 19), led by the Ministry of Education, will explore the developing nature of 21<sup>st</sup> century learning. The second day (May 20), facilitated by BCPSEA, will provide participants with the most up to date information on bargaining and will consider any employment implications that may have emerged from the discussions on day one.

This will also be an important meeting given the recent messaging from the BCTF regarding its desire to conclude collective bargaining before the current agreement expires on June 30. If this is truly their desire, then the pace of bargaining will undoubtedly need to quicken and the provincial parties will need to be ready and willing to engage in meaningful bargaining on provincial matters as soon as possible.

In mid-April, the BC Supreme Court released its [decision on Bills 27 and 28](#). The case dates back to 2002 when the provincial government passed legislation that moved class size and other matters of school organization from collective bargaining and collective agreements to codification in the *School Act*. As summarized by Justice Griffin, the province's stated objectives in passing the 2002 legislation were, "to provide greater flexibility to school boards to manage class size and composition issues, to respond to choices of parents and students, and to make their own decisions on better use of facilities and human resources."

The Court's decision adopted the precedent set by the Supreme Court of Canada in the 2007 *BC Health Services* case by ruling that the freedom of association protected by the *Charter* includes the right to the "process" of collective bargaining. Justice Griffin decided that the government's 2002 legislation interfered with this process and that the interference was substantial.

However, the Court also noted that when the legislation was introduced in 2002, “the state of the law in Canada was such that the government likely did not anticipate that collective bargaining was protected by s. 2 (d) of the *Charter*.”

On the matter of “working conditions provisions,” the Court found that the process used by government negated any process for voluntary good faith bargaining and consultation, whereas the process used in relation to the provisions that allowed for the consolidation of agreements in the amalgamated districts open a process for future good faith negotiation.

The Court also rejected the argument that BCPSEA failed to bargain in good faith in 2001 and 2002. Although BCPSEA sought policy direction from government to inform its approach to bargaining, no evidence could be found to suggest that government acted in league with BCPSEA to negotiate, or otherwise act in bad faith, prior to the passage of the legislation. The Court has allowed the government one year to revise the legislation so that it conforms with the Court’s direction.

## The Evolution of Recruitment

Finally, in terms of our collective efforts in recruitment, *Make a Future: Careers in BC Education* is seeing exponential growth in the number of people accessing [www.makeafuture.ca](http://www.makeafuture.ca) to seek employment. Our districts are benefitting, too. The site enables districts to highlight their unique qualities, post jobs, and manage the applications they receive much more effectively and efficiently than traditional approaches to recruitment. The team has also seen increased demand for our executive search services for senior positions in school districts. Make a Future has formed a strategic partnership with an executive search specialist, and to date they have managed close to 20 searches for Superintendents, Secretary Treasurers, and other senior staff.

We look forward to seeing you on May 19 and 20!



*Melanie Joy, Chair  
Board of Directors*