

Supreme Court of Canada Decision: Next Steps

The purpose of this bulletin is to provide follow-up to our previous conference calls, e-mails, and other [communications](#) with school districts regarding the process arising from the November 10, 2016 Supreme Court of Canada decision allowing the BC Teachers' Federation appeal of the [2015 BC Court of Appeal \(BCCA\) decision](#).

Parties Reach Priority Measures Memorandum of Agreement

Representatives of the BC Public School Employers' Association (BCPSEA), the BC Teachers' Federation (BCTF), the Public Sector Employers' Council (PSEC) Secretariat, and the Ministry of Education (MoE) have today reached agreement on a Priority Measures Memorandum of Agreement as a first step in responding to the decision of the Supreme Court of Canada.

Background

On November 10, 2016, the Supreme Court of Canada issued its decision in the longstanding litigation between the BCTF and the BC government regarding the deletion of certain BCPSEA–BCTF Provincial Collective Agreement provisions by the *Education Improvement Act*. The Court's decision restored the deleted provisions, which triggered the negotiation process under Letter of Understanding No. 17 (LOU No. 17) to the 2013-2019 BCPSEA–BCTF Provincial Collective Agreement. For reference, LOU No. 17 states:

"If the final judgment affects the content of the collective agreement by fully or partially restoring the 2002 language, the parties will reopen the collective agreement on this issue and the parties will bargain from the restored language. The Education Fund provisions will continue in effect until there is agreement regarding implementation and/or changes to the restored language."

Shortly after the Supreme Court of Canada decision was issued, representatives of BCPSEA, PSEC, and the Ministry of Education began meeting with the BCTF to discuss the implementation of and/or changes to the restored language, as required by LOU No. 17. Through these discussions, the parties have agreed to interim priority measures that will be implemented in the BC public education system while a final solution to the issues raised by the Supreme Court of Canada decision continues to be discussed.

The Priority Measures Memorandum of Agreement

The key components of the Priority Measures Memorandum of Agreement are as follows:

- The Ministry of Education will provide \$50 million in net new funding for British Columbia's public education system for the balance of the 2016/17 school year. The parties have agreed that this funding represents the monetary equivalent of approximately 1000 - 1100 teacher FTE, depending on experience, qualifications and district-specific compensation variation;

- The \$50 million in net new funding will be used to add additional enrolling and non-enrolling teacher FTE during the 2016/2017 school year;
- Where it is not feasible to use the net new funding to add additional enrolling or non-enrolling teacher FTE during the 2016/2017 school year it may be used to fund other school district-level capacity building initiatives to support teachers;
- Recommendations regarding the allocation of the net new funding at the school district level will be jointly developed through a district committee established by the Superintendent and the local union president. The district committee will endeavour to reach agreement in January regarding the allocation of additional teacher FTE;
- The net new funding that is not spent implementing the priority measures set out above will be applied towards the final agreement regarding implementation and/or changes to the restored collective agreement provisions;
- The Priority Measures Memorandum of Agreement is without prejudice to what may be included in a final agreement regarding implementation of and/or changes to the restored collective agreement provisions;
- The Priority Measures Memorandum of Agreement will terminate on June 30, 2017 unless the parties mutually agree to extend or renew it.

Attached please find the Priority Measures Memorandum of Agreement and the news release issued today by the Ministry of Education.

Discussions Continue

The parties will continue to meet and work toward a final agreement. Given the changes to the public education system over the past 15 years, it is critical that information and issues be fully canvassed to ensure that the final resolution is reflective of today's classrooms, given the many changes that have occurred during that time with respect to, for example, special needs definitions and descriptions, amongst other issues.

We will continue to keep you informed as events progress.

Questions

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

Attachments:

- Priority Measures Memorandum of Agreement
- Ministry of Education News Release