

Distribution of this Bulletin

Please ensure that this bulletin is circulated to all administrative staff in both the district office and schools who must rely on the collective agreement in the performance of their duties.

Arbitration Award: School District No. 62 (Sooke) — Academic Dual Credit Courses — Contracting Out

On October 8, 2013, Arbitrator John Hall rendered his decision with respect to high school students participating in academic dual credit courses. These courses were being provided by Camosun College using school district facilities. The students received both secondary school graduation credits and post-secondary credits for successful completion of these courses.

Issues

Has the district contracted out the work of K-12 teachers? If so, does the work being performed by Camosun College meet the definition contained in the Sooke collective agreement; i.e., are these “educational services of a type and kind normally and regularly performed” by Sooke teachers?

Contracting Out Collective Agreement Provision

Art. A.30 All work performed by members of the bargaining unit as part of their regular duties and responsibilities shall continue to be performed only by members of the bargaining unit. Except as mutually agreed upon by the parties, the Board shall not contract out **educational services of a type and kind normally and regularly performed** by members of this bargaining unit.

Facts

- SD No. 62 (Sooke) entered into an arrangement where Camosun College would deliver post-secondary courses that qualified for dual credits in accordance with Section 10 of the Graduation Program Order (the Order) under the *School Act*.
- Under the Order, certain post-secondary courses are listed as qualifying for dual credit; i.e., the student would receive a credit towards their high school graduation as well as a credit towards a college or university graduation.

- The Graduation Program Order also provides for other methods to attain high school credits towards graduation. These include equivalency (documented prior learning), challenge (undocumented demonstrated prior learning), external credentials (which captures a wide range of programs such as music and sport), and independent study.
- The five dual credit courses being challenged in this grievance were: Art, Criminology, English Composition, English Creative Writing, and Psychology.
- All five courses were pre-existing Camosun College courses (not modified in any fashion); i.e., the district was uninvolved in the creation, content, teaching, and assessment of these Camosun College courses.
- The courses were taught in school district facilities.
- For each class, 12 spaces were held for SD No. 62 (Sooke) students with the remainder filled by the general public.
- The district's involvement included providing the facilities, promoting the courses, enrolling the students, and cross-registering and receiving funding from the Ministry to fund the student's tuition.
- Although the tuition was paid by the district through ministry funding, the students were responsible for their books and the registration fee.

Benefits of Dual Credit Courses — Win/Win/Win

The following excerpt from the arbitration award provides a good summary of some of the employer's evidence on the benefits of dual credit courses:

"The courses are a fabulous way for students to start their post-secondary education. The students get a first taste and exposure to the rigours of a college course in a supported environment. It also helps students with financial challenges. One witness described dual credits as a win/win/win for Camosun College, the District and students. For students, they become used to the post-secondary system and this creates a smoother transition; there is a deeper connection between Camosun College and the District; and Camosun College gets its footprint in the District to help enrollment. The dual credit courses are regarded as preferable to AP courses because the latter do not expose students to the full college experience, and some students have struggled with second year courses after advanced placement."

Arbitrator Hall's Findings

Given the above-noted facts, Arbitrator Hall determined that the work performed by Camosun College in the delivery of these five courses did not meet the definition in the collective agreement (educational services of a type and kind normally and regularly performed by members of the BCTF's bargaining unit). As the work being performed did not meet this collective agreement definition, it was unnecessary for Arbitrator Hall to rule on the employer's first argument concerning whether this was in fact a contracting out situation at all; i.e., did SD No. 62 (Sooke) actually contract out work to Camosun College or was SD No. 62 (Sooke) just acting as a conduit for students to access the government legislated dual credit program?

In support of his ruling, Arbitrator Hall noted that:

- dual credits were just one method under legislation for students to obtain credits towards high school graduation (equivalencies, challenges, external credentials, and dual credits).
- the courses taught were accredited post-secondary courses recognized by other colleges and universities.
- there had been no change to the content of the Camosun curriculum used in these courses and that the same courses had been taught on Camosun campuses prior to the dual credit program with SD No. 62 (Sooke).
- the courses were attended by both SD No. 62 (Sooke) students (minority) and the general public (majority).
- there was no evidence that teachers in SD No. 62 (Sooke) lost work as a result.
- the finding that no work was lost was also a basis for dismissing the union's allegation that the technological change provision was applicable and had been violated.
- although the present case involved academic courses, the language and facts were very similar to the 2006 award by Arbitrator Taylor in SD No. 79 (Cowichan Valley) on their dual credit entry level trades program known as Level 1 basic construction. In that award, Arbitrator Taylor found no violation of the contracting out language.

Significance

School districts now have two arbitration awards that support and further solidify the ability for students to access dual credit courses in areas of both trades and academics.

Major factors in both of these awards were that these courses were existing college courses without the involvement or control of the school district. Further, there was no evidence of loss of work or significant contractual arrangements between the parties.

It is important that districts review their collective agreement language and keep these factors in mind when entering into arrangements with colleges/universities concerning dual credit programs.

Questions

Should you require assistance or wish to discuss this issue further, please contact your BCPSEA district liaison.