

## **FAQ—Implementation of MOA**

### **April 13, 2017**

This document is based on common questions that have surfaced during implementation meetings and communications between the local parties. It is a working document and will be updated as necessary. We have listed 28 questions under five separate categories: Best Efforts, Flex Factor, Non-enrolling Teacher Ratios, Remedy, and School Organization. The answers provide support for discussions at the local tables, but we understand there may be other locally made solutions to issues that arise and locals are encouraged to engage in ongoing meetings with districts through a committee process.

### **Best Efforts**

#### **1. What does “best efforts” mean in terms of the district following the restored collective agreement provisions?**

“Best efforts” is a much higher legal test than “reasonable efforts,” which means that districts cannot rely on finances and will have to look at many factors including, but not limited to, items included in the MOA such as:

- school boundaries/catchments
- re-examining the use of existing space in schools or across schools that are proximate to one another
- temporary classrooms (i.e. portables)
- reorganizing existing classes to meet class-composition limits.

#### **2. How do we, as a local, ensure that our school district is implementing the restored language to the best efforts standard?**

Implementing the restored language will require considerable oversight by locals to ensure that school districts are living up to their commitments and obligations. Areas that locals may want to review with the district include, but are not limited, to:

- **Teacher recruitment**—districts provide concrete evidence that they have tried to recruit teachers (e.g., universities, career fair, other jurisdictions, advertisements, etc.).
- **Ordering portables**
  - districts provide evidence of search for portables
  - research of necessary local city/municipal permits for 2017–18 and 2018–19
  - delivery dates of portables over 2017–18 and 2018–19 school years.
- **Draft school organization plans**—locals need to see school organizational plans that ensure class-size and composition compliance as well as providing sufficient room to accommodate new students, student transfer, and midyear designations.
- **Challenge qualification requirement of postings**—given the thousands of new teaching positions, locals need to insist districts:

- not have onerous qualification requirements leading to unfilled positions
- provide in-service and training opportunities to allow teachers to assume more specialized positions
- not create artificial barriers in postings within primary or intermediate grades or between primary/intermediate or intermediate/secondary.

**3. Our school district is refusing to consider catchment/boundary changes to fully implement the local restored collective agreement language citing parent complaints. Can they refuse to consider catchment changes?**

No. The MOA clearly identifies catchment areas as an important consideration in implementing the restored language. The local should insist they be considered and if there is an impasse, it should be referred to the provincial parties per the MOA dispute resolution process.

**4. Our school district has closed schools that are used for other purposes, and they do not wish to re-open them. Can they refuse to re-open the schools?**

No, assuming there are space issues that may lead to non-compliance.

**5. Our school district has schools that are used by outside groups under lease. The school district does not wish to break the lease of the leaseholders. Can the district refuse to break such leases?**

Assuming there are space issues that may lead to non-compliance, the local should insist the district approach the renter to establish a date to terminate the lease.

**6. Our school district has already created a contingency fund for remedies and has stated that it will be unable to meet the restored collective agreement provisions. Can the school district create such a fund and also declare they already have made best efforts and know they will be in non-compliance?**

Yes and no.

- A district is free to create any fund it wishes in its budget.
- However, the school district cannot declare best efforts have been made prior to the start of the 2017–18 school year when the collective agreement language needs to be fully implemented.

**7. Given space requirements, is the proposal of running schools in shifts (e.g., 9:00 a.m.–3:00 p.m., 10:00 a.m.–4:00 p.m., etc.) a possibility, and what should the local’s response be to such a proposal?**

The local should request detailed information on the use of existing space and availability of space in other schools or portables. After such spaces have been utilized to the maximum extent possible, then schools running in shifts could be considered. However, locals should ensure CA compliance with length of day, hours of work, etc.

**8. The local is wanting to ensure compliance with class-composition language. What should locals do to ensure they have appropriate data to ensure the best efforts standards has been met?**

BCPSEA has cited privacy concerns and advised districts to err on the side of caution when handling data related to class composition. We are in discussions with BCPSEA to try and find a process that would enable the local parties to review the data for compliance purposes while respecting privacy. We hope to reach an understanding on this issue soon.

However, in the meantime, in order to determine the appropriate staffing level at schools to meet class-size and class-composition limits, individual teachers, union staff committees, school-based teams and district committees (where they exist) need to:

- collect aggregate data on student designations for high and low incidence and behaviour (if used in class composition).
- not collect students' names or their medical information.
- give that information to the local so that they have the information required to ensure compliance.

## **Flex Factor**

**9. What is “flex factor” and how does it work?**

“Flex factor” means that the class-size limit can be exceeded under certain circumstances.

**10. How does flex factor vary across the province?**

Every collective agreement is different but each local agreement tends to fall under one of three categories:

- **No flex factor**—class-size limit cannot be exceeded.
- **Dated flex factor**—class-size limit can be exceeded after a certain date.
- **Open flex factor**—class-size limit can be exceeded throughout the school year.

## **Non-enrolling Teacher Ratios**

**11. Are the district staffing ratios school-based or are they district-wide ratios?**

Some collective agreements calculate ratios at the school level based on student population. If your collective agreement does not have such language, the ratios will be determined on a district-wide basis; however, allocation by school was a common practice based on FTE. If you have concerns about schools not getting the support they need, it is important to note that these are *minimum* staffing ratios, and there is nothing preventing a school district from providing additional staffing.

**12. Are itinerant positions, including but not limited to, School Psychologists, Occupational Therapists, Speech Language Therapists, and Teachers of the Hearing Impaired and Visually Impaired included in the ratios for non-enrolling teachers under the special education categories of SERT, LAT, and ELL?**

No, those non-enrolling positions existed in addition to the SERT, LAT, and ELL, and should continue to exist separate from the ratios in Schedule A. Their roles are completely

different. The negotiated ratios were never intended to include others outside of these roles. Although we had discussions about different delivery models, it was never assumed that this would give districts the authority to include any non-enrolling teachers under the ratios in the MOA.

**13. Are non-enrolling teachers working in teacher support roles (helping teachers, literacy and numeracy support and teacher mentors) counted in the special education categories of SERT, LAT and ELL?**

Not usually. The role of SERT, LAT, and ELL teachers is primarily to provide direct service to students and not training and supports to teachers. There may be some exceptions where the local and district have collaborated to provide a special education support program that works for their members in specific circumstances.

**14. Does the Teacher-Librarian non-enrolling ratio include preparation time coverage?**

Unless it is explicitly stated in your collective agreement that Teacher-Librarians provide preparation relief, the BCTF position is if a Teacher-Librarian were to take a class for a colleague and provide preparation relief, they would be the enrolling teacher during these times. Providing preparation relief to colleagues cannot reasonably fall under the definition of a non-enrolling Teacher-Librarian position.

**15. Are administrators working in the non-enrolling positions captured by the restored language included in the ratio?**

No. These ratios were negotiated for bargaining unit members.

**16. Some districts are setting a high qualification bar when trying to fill the Teacher-Librarian positions (and others) with the intent that it is unlikely they can fill most of these with the level of qualification requested.**

While we agree with setting reasonable qualifications we believe it is disingenuous to set very high qualification bars when you consider that many Teacher-Librarian positions have been filled by school administrators over the years since 2002 without many of them having any Teacher-Librarian qualifications and the role of the Teacher-Librarian has changed over the intervening 15 years to include more student research and online access to resources. Provision 7 (v) from the MOA should be applied judiciously and not with the intent to establish barriers.

## **Remedy**

**17. Can teacher assistant or educational assistant staffing be used as a remedy?**

No. Once the remedy amount is calculated, the affected teachers will determine whether the remedy is additional preparation time, additional non-enrolling support for their classes, or additional enrolling staff to allow for co-teaching. In the event the above remedies are not practicable, the local parties will meet to determine the appropriate remedy the teachers will receive.

**18. How will preparation time, non-enrolling, or enrolling staffing support generated by remedy be scheduled?**

Teachers will determine the remedy, and the schedule should be determined by the teacher after consultation with the school administration.

**19. If a teacher requests a class in excess of the class-size or class-composition limits, will remedy apply?**

If a local agreement provides for teachers to request their class be in violation of class-size limits, they will not be eligible for a remedy. This is relatively common provision for some Band/Choir classes. In addition, the school district must adhere to the limits and language within the collective agreement and must demonstrate it has made best efforts to comply with class size and class composition. Violations of the collective agreement cannot be agreed to by individual teachers.

**20. What is the remedy for a secondary block, per violation, at a linear and a semestered secondary school?**

The remedy on a linear schedule per block is 1/7 of full-time per violation and 2/7 on a semestered schedule per violation for each block.

**21. How does the *School Act* work with my restored local class-size and class-composition language?**

The *School Act* class-size limits have not been repealed so are in force as the minimal standards. If any collective agreement has language superior to the *School Act*, the collective agreement language applies. Conversely, if the *School Act* maximum is better than the collective agreement language, then the *School Act* applies.

**22. The *School Act* regulation on providing remedy to Grade 4–12 classes has been repealed. What happens now?**

The *School Act* regulation now references the 2017 MOA remedy process and for classes that exceed the *School Act* maximum, remedy shall apply per the terms and conditions of the MOA.

**23. My local collective agreement allows for a class-size flex factor. How does this work with the *School Act* maximum?**

If, after best efforts, a class exceeds the *School Act* maximum, remedy will apply for over 30 students regardless of whether there is flex factor language. This is because you cannot contract out of legislation; that is the parties cannot agree to violate the legislation.

*For example:* an intermediate CA limit of 29 with a flex factor of 3. If a class were to have 32 students, there would be a class-size remedy for the 31st and 32nd student even though the flex factor allows for it under the collective agreement.

## **School Organization**

### **24. Our district has been reluctant to meet with us to discuss implementation and school organization?**

It is the expectation of the provincial parties that there will be respectful and collaborative meetings to help understand and implement both the restored language and the application of the MOA. The MOA clearly states the language is restored and that school districts need to make best efforts to implement the terms and conditions of the restored language. The local should insist that regular meetings be scheduled and that a joint committee be struck to facilitate the implementation. If the district continues to delay or decline to meet, the matter should be referred to the provincial parties per the MOA dispute resolution process.

### **25. What is a special class or an alternate class?**

Such classes will vary according to the local collective agreement and refer to classes supporting students with social, emotional, and academic challenges that generally are much smaller than regular classes to provide more intensive support.

### **26. Do international students count towards the ELL ratios?**

No. While the international student fees are generated by these students to support their educational program, the ELL ratios are Ministry funded to support students who normally reside in the school district.

### **27. How do term courses (i.e. 2-credit courses) count towards total teaching load under the collective agreement?**

For local collective agreements with total teaching load language, term course students count is generally pro-rated for the length in time the course runs. However, additional preparations and more reporting requirements for teachers will occur as a result.

### **28. Can the employer convert staffrooms to classroom?**

Yes, unless the local collective agreement language requires the provision of a staffroom. In some circumstances, the school district may need to utilise staffrooms in this manner in order to comply with class-size and composition provisions. If this arises as an issue, the local may want to pursue the employer's assurance that there will still be a space available for teachers to use during their prep time (this could be a smaller area) and a room that will be available without students during lunch time (although in the absence of collective agreement language on staffrooms there is no legal requirement for the employer to provide this). The local would also want to ensure that a union bulletin board is made available in the school in a location that teachers will easily have access to it.