

BRITISH COLUMBIA LABOUR RELATIONS BOARD

IN THE MATTER OF AN APPLICATION PURSUANT TO  
THE *LABOUR RELATIONS CODE*, R.S.B.C. 1996, c.244

BETWEEN:

BRITISH COLUMBIA PUBLIC SCHOOL EMPLOYERS' ASSOCIATION  
(the "Employer" or "BCPSEA")

AND:

CANADIAN UNION OF PUBLIC EMPLOYEES  
("CUPE")

AND:

BRITISH COLUMBIA TEACHERS' FEDERATION  
(the "Union" or "BCTF")

BEFORE THE LABOUR )  
RELATIONS BOARD )

TUESDAY, THE 10<sup>TH</sup> DAY OF JUNE,  
2014

RICHARD S. LONGPRE, VICE-CHAIR )

AMENDED ORDER

WHEREAS the Labour Relations Board (the "Board") received an application from BCPSEA pursuant to Section 72(1) of the *Labour Relations Code* (the "Code");

- 2 -

AND WHEREAS the Ministry of Jobs, Tourism and Skills Training and Minister Responsible for Labour has directed the Board to designate the facilities, productions and services that the Board considers necessary or essential to prevent immediate or serious danger to the health, safety or welfare of the residents of British Columbia or to prevent immediate and serious disruption to the provision of educational programs;

AND WHEREAS the undersigned was established as a Panel of the Board pursuant to Section 117 of the Code to deal with this matter;

AND WHEREAS the Employer and the Union made submissions to the Board by conference call and CUPE was in attendance on June 10, 2014;

AND WHEREAS the Board issued an interim order in *British Columbia Public School Employers' Association*, BCLRB No. B74/2014 (see Appendix "A");

AND WHEREAS the Board issued an order on Saturday, June 7, 2014 which is amended as follows.

NOW THEREFORE, PURSUANT TO SECTION 72(1)(a)(i) and (ii) OF THE *LABOUR RELATIONS CODE*, THE LABOUR RELATIONS BOARD AMENDS THE JUNE 7, 2014 ORDER AND DESIGNATES THE FOLLOWING SERVICES PROVIDED BY MEMBERS OF CUPE AS ESSENTIAL:

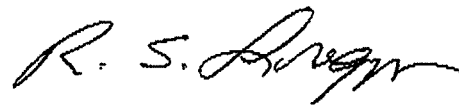
1. All services required for lunch hour and recess supervision of students, being all non-teacher employees who regularly perform such supervisory duties during the lunch hour break.
2. All services by non-teacher employees regularly required to provide supervision and support to special needs students at any time pickets are

- 3 -

placed at any school, and when those members of CUPE are regularly required to be working.

DATED AND EFFECTIVE at Vancouver, British Columbia, this 10th day of June, 2014.

LABOUR RELATIONS BOARD

A handwritten signature in black ink, appearing to read "R. S. Longpre". The signature is written in a cursive, flowing style.

RICHARD S. LONGPRE  
VICE-CHAIR

**APPENDIX "A"**

1. If the Union implements strike action that does not involve full withdrawal from all duties the following will apply:
  - With respect to any before/after school, recess or noon hour supervision normally provided by teachers, before/after school supervision related only to bus drop off and pick up, and recess and noon hour supervision will continue to be provided by teachers subject to the Employer utilizing management and excluded staff to the best extent possible to replace teachers for these activities. The utilization of management and excluded personnel will be discussed locally. If the matter cannot be resolved at the local level, either party may refer the matter to the Board for mediation/adjudication. The principles set out in BCLRB No. B417/2001, B431/2001 and B194/2011 shall apply to this decision.
2. If the Union intends to escalate strike action comprising of one (1) day per week where teachers intend to withdraw from all duties, the Union shall provide BCPSEA not less than two (2) working days' notice of the names of the School Districts and/or schools or worksites affected. Notice to BCPSEA will be deemed to be notice to all affected employers.
3. If the Union intends to escalate strike action comprising an intention to withdraw from all duties beyond that described in #2 above, the Union shall give BCPSEA not less than three (3) working days' notice. Notice to BCPSEA will be deemed to be notice to all affected employers.
4. Teachers will be available in the event of any emergency or disaster situation. In the event of a dispute between BCPSEA and BCTF as to whether an emergency or disaster situation exists, the teachers will perform the work in question. This principle is akin to the "work now grieve later" principle. If a School District considers a situation an emergency, teachers will respond. If there is a dispute as to whether an emergency actually existed, the dispute will be addressed later.
5. The provisions of Section 73(2) of the Code apply.
6. If there is a dispute arising from this decision, the dispute shall be immediately referred to the Board. The Board will conduct a hearing, by conference call if necessary, and issue a decision within forty-eight (48) hours of referral to the Board.
7. This decision reflects the current determination of the Board and is without prejudice to any applications to vary this decision. The decision may be varied by agreement of the parties or revised by successful application to the Board by BCPSEA or the BCTF.