

2008-12

August 29, 2008

By E-mail: 4 Pages

BCTF Advice to Local Presidents and Frequently Asked Questions Regarding the Amendments to the Class Size Regulations

We understand that the BCTF has recently-provided advice and direction to its Local Presidents regarding the recent changes to the Class Size Regulations. Their advice and direction are listed below along with BCPSEA's suggested responses and an FAQ.

The BCTF advice and direction is as follows:

1. That local presidents meet with the superintendent before the first week of school to:
 - outline our position that based on the new definition of consultation, the BCTF advise members that Bill 33 limits cannot be exceeded until the consultation/consent process is complete;
 - demand that resources be in place to address concerns raised in the consultation/consent process; and
 - request principals provide rationales in writing.
 - put the demand for resources in writing.
2. That BCTF members:
 - a. continue to participate in the consent/consult process;
 - b. request that information relevant to a proposal for the size and organization of their class(es) be provided in writing;
 - c. use the two day consultation period to
 - i. record information regarding the consultation process on a form based on the provincial template,
 - ii. raise concerns regarding the learning situation for students,
 - iii. request the provision of additional resources as per policy 3.Q.02; and
 - d. report any violations, including lack of meaningful consultation, by signing on to the provincial grievance using the Class Size and Composition Provincial Grievance Reporting Form.
3. That based on the new definition of consultation, the BCTF advise members:
 - a. that Bill 33 limits cannot be exceeded until the consultation/consent process is complete; and
 - b. to file grievances if limits are exceeded before the consult/consent process is complete.
4. That teacher counsellor is not to participate in organizing classes that exceed *School Act* limits without direction in writing from an administrator.

BCPSEA's Advice and FAQ's:**1. Where does the principal place the student(s) during the 2 school days of consultation?**

Students may be placed in a class on an interim basis pending the consultation and finalization of the class configurations. This interim placement is contrary to the advice provided by the BCTF in Point 1 above. If there is a dispute, however, the teacher is not entitled to refuse the student placement although the union may file a grievance.

As students may be placed in a class on an interim basis, a statement should be included in the materials provided by principals to teachers to alleviate any misperceptions that a final decision has already occurred during the early stages of September when preliminary staffing has been assigned, but before the consultation process has been completed. For example: Initial class compositions and assignments that occur prior to and during the consultation period in September should not be perceived in any way as being indicative of a decision made.

2. Can a teacher refuse to let a child into his/her class or refuse to teach a class during the period of consultation?

Districts should expect teachers to follow the “work now grieve later” process and continue to teach regardless of class size during the consultation process. Any dispute would then proceed through the grievance process set out in the Collective Agreement.

3. Can a teacher counsellor refuse to participate in organizing classes that exceed the School Act limits without direction in writing from an administrator?

It is important to note that the School Act does not provide for limits beyond Grade 3 but, instead stipulates the threshold at which consent and consultation are required. All teachers are expected to perform their full duties during the term of the collective agreement. If a teacher counsellor is refusing to participate in organizing classes and this is part of their duties they may be disciplined and/or that action may be deemed by the Labour Relations Board or an arbitrator to be a strike during the term of the collective agreement or a violation of the collective agreement itself. A Principal, furthermore, is not required to provide any teacher with written direction to perform their regular duties. In the case of such a refusal, however, you should contact your BCPSEA district liaison for advice and to determine the most appropriate course of action. It may become necessary to provide written direction in such circumstances on a without prejudice basis and BCPSEA is considering whether further action through the grievance process or the Labour Relations Board will be necessary.

4. Some BCTF locals are asking for release time for teachers to attend consultation meetings. Are districts required to provide release time for teachers?

There is nothing in the class size provisions of the School Act or the Class Size Regulation that requires districts to provide release time for teachers for the purpose of consultation. However,

it is within the discretion of districts to provide release time if it is deemed operationally necessary.

5. Some BCTF locals are taking the position that “teachers will be expecting information relevant to proposals for the size and organization of classes to be in writing”. Are principals required to provide relevant information to teachers in writing?

The definition of consult does not require that the relevant information be provided in any specific form. Despite the advice of the BCTF in Point 1 and Point 2 above, it is not mandatory that the information be provided in writing.

6. Some BCTF locals are taking the position that “teachers will also expect written rationales for proposals that exceed 30 students or 3 special needs students in a class”. Are principals required to provide written rationales to teachers?

The new definition of consult requires that the principal of a school provide the teacher of a class with information relevant to a proposal for the size and organization of the class. There is no specific requirement that principals provide “written rationales” for the proposal.

7. Some BCTF locals are taking the position that “in order for there to be genuine consultation regarding class size and organization, the district must be able and willing to provide resources to address concerns that will arise during the process”. Are districts required to provide additional resources such as.....?

The class size provisions of the School Act and the Class Size Regulation do not require that additional resources be provided when grade 4 – 12 classes have more than 30 students or when there are more than 3 students with an IEP in a class.

8. Why has BCPSEA revised the forms that it is recommending districts use during the consent and consultation processes?

The forms that were provided by BCPSEA to districts as a template in 2006 included the following information:

- Rationale for the Organization of the Class
- Acknowledgement that the teacher either agreed or disagreed with the organization of the class
- Signature lines for the teacher and the principal

We no longer recommend that the information above be included on the forms as rationales for the organization of the class since they are not required and consultations do not require a signature of the teacher. We also decided to recommend two new forms:

- (1) A record of consent discussions for grades 4-7 with more than 30 students. On these forms, we included a place to record the teachers consent or failure to give consent and a signature line for the teacher and the principal.
- (2) A record of consultation discussions for grades 8-12 with more than 30 students and for proposed classes with more than 3 students entitled to an IEP.

Based on feedback from districts, we revised the forms to make it clear which form to use for consent discussions and which form to use for consultation discussions. The revised forms are attached. As stated in @ Issue 2008-11 Class Size - Guidelines for New Regulations, such forms should be for the principal's use only.

9. If the principal takes notes during a verbal consultation discussion with a teacher, should the principal provide the teacher with a copy of the notes?

The BCTF is recommending that teachers' record information regarding the consultation process on a form based on a provincial template. Therefore, principals are encouraged to keep their own notes of the consultation discussions that they have with teachers to use should a grievance arise. Such notes should be taken during the discussion or recorded immediately afterwards (with a notation as to when the notes were recorded). Further, the notes should record the discussion, but not include any other commentary or notations. Principals do not have to provide their notes to the teacher.

Questions

If you have any questions regarding this bulletin, please contact your BCPSEA labour relations liaison.