

Clarification of District Obligations Regarding Local vs. Provincial Bargaining

A number of Boards of Education around the province have recently received letters from their teachers' union local with the following quote:

The XXXX Teachers' Association wishes to advise School District XX of our intent to commence local bargaining no later than March 1, 2011 as stipulated in Article A.1.2 of the Collective Agreement:

"Except as otherwise provided, this Collective Agreement is effective July 1, 2006 to June 30, 2011. The parties agree that not less than four (4) months preceding the expiry of this Collective Agreement, they will commence collective bargaining in good faith with the object of renewal or revision of this Collective Agreement and the concluding of a Collective Agreement for the subsequent period."

The receipt of these letters has created some concern for boards as to their legal obligation to start bargaining, the split between local and provincial issues, and the appropriate response.

To clarify:

- It is the parties to the Collective Agreement (i.e., BCPSEA and the BCTF) who have the obligation under Article A.1.1 to commence collective bargaining not less than four months preceding the expiry of the Collective Agreement.
- Similarly, under the *Labour Relations Code*, only the parties to the Collective Agreement can serve "notice to bargain" and require the other party to commence bargaining by a particular date.
- Local teachers' unions and boards of education are not parties to the Collective Agreement (although they are bound by its terms). As a result, local teachers' unions cannot serve "notice" to bargain on boards of education nor does Article A.1.1 place a direct requirement on boards of education and local teachers' unions to begin local bargaining on March 1.
- BCPSEA is the accredited bargaining agent for all 60 public school districts and thus has the legal responsibility to bargain on behalf of boards of education. Boards of education have significant input into the bargaining proposals put forward by BCPSEA on their behalf. This includes our upcoming January 28 Representative Council. There will also be opportunities for boards in connection with the bargaining process to discuss local matters with the BCPSEA and the union.

- BCPSEA is responsible for bargaining all provincial matters and for delegating bargaining authority to boards of education to bargain local matters.
- Bargaining of specified local matters is delegated to school districts by BCPSEA at an appropriate time during the collective bargaining process and, pursuant to the *Public Education Labour Relations Act* (PELRA), is governed by BCPSEA policies and procedures concerning the delegation of bargaining authority on local matters.
- The BCTF has expressed a desire to radically alter the designation of provincial and local matters so that the bulk of issues would be dealt with at the local level.
- The designation of local and provincial matters within the Collective Agreement was established by the provincial parties as required under PELRA. In his 2007 review of the provincial bargaining process, arbitrator/mediator Vince Ready also commented:
 - “Having just achieved a singular success, I am reluctant to recommend a wholesale change in the process of collective bargaining.”
- There is no obligation to change the designation of local and provincial matters in bargaining. The agreed upon split remains in place unless both provincial parties first agree to a review process and then further agree on a new split of local and provincial matters.
- On November 26, 2010 BCPSEA presented the following to the BCTF as a proactive solution to the issue of local vs. provincial bargaining:

“We propose that the provincial parties meet to discuss the most effective approach to this round of bargaining without a predetermined process outcome. This approach will ensure that we can tailor any solution to the actual issues. We further propose that the parties should seek to ensure any process for collective bargaining:

- is constructive for both parties
- minimizes the possibility of disruption and harm to local relationships
- is sustainable for both parties
- is cost effective with limited duplication of effort and cost
- is efficient
- is best able to address issues unique to one district or region.

In order to begin this process, one possible approach would be for the provincial parties to:

- identify all matters at issue
- identify matters unique to one district or region
- develop a process to address such matters subject to the principles above.

We further propose that, for the upcoming round of collective bargaining, the BCTF and BCPSEA together review the February 2007 Final Report for Collective Bargaining Options and incorporate the process options that the parties believe will facilitate bargaining.”

The BCTF has yet to respond to this proposal.

Our hope is that the provincial parties can resolve the issue of the designation of local and provincial matters, which will then provide clarity concerning the sequence and format of bargaining.

School districts should consider all of the above information as well as the motivation of the BCTF directive when responding to union calls for local bargaining (see attached sample response letter). While all parties are interested in a bargaining process that best meets the needs of each district, this can happen within the current bargaining structures as it did with the 2006 agreement.

Questions

For further information on this issue or suggested responses, please contact your BCPSEA labour relations liaison at any time.

Attachment: Template Letter — Response to Local Union “Notice to Bargain”

Template letter response to Local Union “Notice to Bargain”

We have received your letter concerning local bargaining.

As you are aware, the BC Public School Employers’ Association (BCPSEA) is the accredited bargaining agent for all boards of education, including the Board of Education of School District No. XX (_____), and has exclusive authority to bargain collectively on their behalf.

As such, while the terms of the Provincial Collective Agreement are applicable in our district and to the members of your Local Union, and while there are local provisions, in accordance with the agreed upon designation of Provincial and Local matters set out in LOU #1, the parties to the Collective Agreement are BCPSEA and the BC Teachers’ Federation (BCTF).

Under the *Labour Relations Code* and article A.1.1 of the Collective Agreement, it is the parties to the agreement — BCTF and BCPSEA — who may give notice to bargain collectively.

While we are, of course, prepared to discuss local matters (as designated in LOU #1) in the context of collective bargaining, we do not feel it is appropriate at this time to meet for the purposes you have described in your letter.

We have been advised that BCPSEA and the BCTF are engaged in discussions concerning the form and sequence of bargaining. Our expectation is that BCPSEA and the BCTF will jointly send instructions to their respective members regarding the process to be followed in this round of bargaining. The Board expects that BCPSEA and the BCTF will commence collective bargaining in due course and, under section 8 of the *Public Education Labour Relations Act* (PELRA), the Board is bound by BCPSEA’s policies and procedures concerning bargaining local matters.

Sincerely,

[signatory]