

Class Size Update

S.104 Arbitration Referrals: Employer Adjournment Application Update

BCTF S. 104 — Expedited Arbitration Referrals — 2010-11 Class Size Grievances

As described in [@issue No. 2011-08](#) dated March 18, 2011, the BC Teachers' Federation (BCTF) has now decided to no longer attempt to resolve the thousands of classes under grievance for the 2010-11 school year by applying the principles learned in Arbitrator Dorsey's awards to the representative classes with respect to the issue of "appropriate for student learning." The BCTF change in direction has occurred after approximately 100 days of arbitration and hundreds of pages of rulings by Arbitrator Dorsey, and only months before the expected issuance of his May 20, 2011 award on an additional 44 representative classes, which deal solely with the issue of "appropriate for student learning."

The BCTF has now referred four grievances to four different arbitrators under s. 104 of the *Labour Relations Code*. Further, the BCTF has refused to await this award or, in the alternative, agree to use Arbitrator Dorsey in these s. 104 cases for the 2010-11 school year. This action on the part of the BCTF may result in confusion, duplication of resources, unnecessary arbitration costs, and the issuance of inconsistent awards by a variety of arbitrators.

As a result, BCPSEA sought a temporary adjournment to these four cases until Arbitrator Dorsey has issued his award on May 20, 2011 and the parties have had an opportunity to attempt to use this case law (representative classes) to settle the outstanding class size grievances.

Status of Temporary Adjournment Applications

As reported in [@issue 2011-08](#), Arbitrator Steeves granted this temporary adjournment for the s. 104 class size grievance in School District No. 67 (Okanagan Skaha). Since that award, Arbitrators Orr and Lanyon have now granted similar adjournments for the s. 104 class size grievances referred to them in School District No. 70 (Alberni) and School District No. 35 (Langley). A similar application for a temporary adjournment will be sought on April 15, 2011 for the s. 104 class size grievance referral to Arbitrator Glass with respect to School District No. 43 (Coquitlam).

Next Steps

- Final argument for the 44 representative classes will be heard by Arbitrator Dorsey this week (March 29 – April 1).
- Arbitrator Dorsey's award on the 44 representative classes on the issue of "appropriate for student learning" will be rendered on May 20, 2011.
- Once the parties receive the May 20, 2011 award of Arbitrator Dorsey on the 44 representative classes, it is hoped that the parties will rely on and apply this award and the previous awards of Arbitrator Dorsey in an attempt to resolve all outstanding class size grievances in the four s.104 grievances that have been referred to arbitration. The potential success of resolution, to a large part, will depend on the parties' willingness to accept and apply, where possible, what is learned from awards of the representative classes.

Questions

Should you have any questions or would like to discuss further, please contact your BCPSEA labour relations liaison.