

Frequently Asked Questions: BCPSEA Application to the Labour Relations Board

On October 26, 2011 the BC Public School Employers' Association (BCPSEA) made an [application](#) to the Labour Relations Board (LRB) requesting the LRB vary the Essential Services Order to:

- require teachers to prepare and distribute report cards, and
- require the BCTF, upon notice to BCPSEA, to reimburse each school district monthly in an amount equal to 15% of the total gross salaries and benefits costs paid to or on behalf of BCTF members by the school district for that month

For an overview of the application, please see [Essential Services Update 2011-09](#).

BCPSEA remains committed to achieving a negotiated collective agreement. There have been a number of questions, rumours, and misinformation about the state of bargaining and our LRB application. This bulletin will address some of those matters.

What is the current state of bargaining?

BCPSEA and the BC Teachers' Federation (BCTF) commenced bargaining on March 1, 2011 and have engaged in 49 bargaining sessions. Bargaining has moved at a glacial pace. The BCTF continues to maintain \$2.1 billion of proposals on the table — including a variety of leave provisions unheard of in any part of the public sector. Nor have they tabled a full salary proposal. Keeping in mind that the total salary payroll for teachers in BC is currently approximately \$2.9 billion, the BCTF is proposing a 75% increase to their compensation package. This is the reality of what is on the table and this is why the BCTF has been on strike since the first day of school on September 6.

The “cutting pay” contention: Is BCPSEA proposing to dock teachers' pay?

BCPSEA is **NOT** proposing that teachers' pay be reduced.

Our application to the LRB asks for a variance to the Essential Services Order to require the BCTF to reimburse school districts 15% of teachers' total gross salaries and benefits costs on a monthly basis. Our request puts the onus on the union — which is directing its members to engage in strike activity — to reimburse districts for the work that teachers are not performing as part of the BCTF Phase 1 strike.

Why 15%?

BCPSEA consulted with educators and the BCTF's [Workload Issues for BC Teachers](#) to arrive at what we believe is a conservative estimate of the monetary value of the duties teachers have withdrawn as part of their Phase 1 strike.

The “I’m still doing my job” contention: Why is BCPSEA asking that boards be reimbursed for work that teachers are not performing?

The BCTF has said the strike is designed to have minimal effect on students, and that the strike is relieving teachers of administrative burdens so they can focus on teaching. That position is disingenuous. Many of the withdrawn duties are fundamental to the teacher–parent–student relationship, including teacher meetings with parents, administering and supervising tests, and assessment and report cards. We are also hearing that the teachers’ strike activity is inconsistent district by district, school by school, and teacher by teacher. The inconsistency is de-stabilizing and confusing for parents, students, and the school community at large.

Strikes, by their very nature, are intended to be disruptive; this strike is disruptive. Strikes also have consequences; typically, when a union or an employer initiates a labour dispute, there is a response. The BCTF has initiated and is carrying out a strike, as is its right under the *Labour Relations Code*. The employer is responding, as is its right under the *Labour Relations Code*.

It is also interesting to note the comments of CKNW Radio host Simi Sara on her show today:

“So far this school year I haven't really heard how he's doing from his teacher. I haven't even heard what the teacher's policy on communication actually is. What I'm afraid of, though, is that by the time I find out my son will have lost precious months to become a better student. And at this young age — he's only 11 — that can be a big deal.”

The escalation contention: Isn't the BCPSEA LRB application “...unnecessarily throwing fuel onto an already heated situation”? (As stated by BCTF Vice-President Glen Hansman in *The Victoria Times Colonist* on October 27)

Teachers are on strike, as directed by the BCTF. Some local teachers’ association presidents have been quoted in the media that the Phase 1 strike could continue indefinitely.

An essential services strike is a “controlled strike.”¹

As noted by Adjudicator Mark Brown in LRB decision [B161/2011](#) dated September 2, 2011, “The purpose of the controlled strike is to exert as much pressure on both sides without having a serious and immediate disruption on the provision of education programs.”

The BCPSEA LRB application is intended to balance the pressure — although boards of education, district staff, students, and parents are being negatively affected by the teachers’ strike activity, there is no pressure on the union to adopt a more realistic position and modify its \$2.1 billion of proposals on the bargaining table.

¹ The *Labour Relations Code* does not preclude strikes in essential services but, rather, empowers the LRB to regulate or control the dispute in a way that will protect the public interest while, at the same time, replicating to the extent possible the economic pressure that would otherwise be experienced by the parties if there was an unrestricted right to strike.

A “flip-flop” or “a deal is a deal” contention: Why is BCPSEA asking the LRB to vary the Essential Services Order to require teachers to prepare and distribute report cards?

BCTF President Susan Lambert was attributed in *The Vancouver Sun* as saying “...the association's bid to force teachers to write report cards is perplexing, given that it raised no objections to that part of the BCTF job-action plan during the summer.”

Further, Craig McInnes in *The Vancouver Sun* today stated, “As detailed by Vancouver Sun education reporter Janet Steffenhagen, this is a new position for the employers, who agreed last summer that formal reporting could be one of the duties teachers withheld to press their contract demands. At least the BC Teachers Federation has been consistent.”

The Essential Services Order established by the LRB in previous rounds (2001, 2005) was brought forward to this round, as is the practice in such circumstances. The pre-existing Order did not require teachers to prepare and distribute report cards. When BCPSEA and the BCTF met at the LRB in July 2011 to discuss the Essential Services Order, we had no evidence to put before the LRB to vary the Order on report cards.

We are now heading into the third month of the BCTF strike. BCPSEA now has evidence to support, in our view, the position that the preparation and distribution of complete report cards is essential to prevent immediate and serious disruption to the provision of educational programs and/or immediate and serious danger to the welfare of students. Parents, students, teachers, and administrators all need to know if a student is progressing satisfactorily before it becomes too late to address concerns.

It is also worth noting the comments of CKNW Radio host Simi Sara today:

“Now the idea of not getting a report card for your child looms large for parents right across the province. Does that matter to you? Because it certainly does matter to me. I have a child who struggles occasionally in school. We have to work hard to really kind of keep him on track — not always easy. It requires knowing how he's doing and staying on top of the situation.

But it pains me considerably when I hear comments like this one from BC Teachers' Federation President Susan Lambert.

Lambert: “We are talking to parents, communicating with parents, as we've said we would do, about the progress of their child. Report cards are absolutely unnecessary and they don't mean more learning's taking place.”

Sara: “Really? Absolutely unnecessary? On this count, Ms. Lambert, you are very, very wrong. I need a report card to make sure my child doesn't slip through the cracks.”

Our board has received a letter from our local teachers' union (attached). Is what they are saying true? How should we respond?

The letter from the local teachers' union states:

- “As you may be aware your representatives are applying to the LRB for the right to withhold up to 20% of teacher pay for work we are not doing.”

This statement is **not true** — see the response on page 1 of this bulletin. Our application to the LRB asks for a variance to the Essential Services Order to require the BCTF to reimburse school districts 15% of teachers' total gross salaries and benefits costs on a monthly basis. Our request puts the onus on the union — which is directing its members to engage in strike activity — to reimburse districts for the work that teachers are not performing as part of the BCTF Phase 1 strike.

- “We would hope you are aware that teachers are not doing less work but rather have changed focus from administrivia to focus on just teaching and learning...”

As stated on page 2 of this bulletin, in our view many of the withdrawn duties are fundamental to the teacher–parent–student relationship, including teacher meetings with parents, administering and supervising tests, and assessment and report cards.

It is also worth noting the comments of columnist Craig McInnes in *The Vancouver Sun* today:

“After taking a strike vote in June, BCTF president Susan Lambert issued a news release to reassure parents that the actions they would be taking — including refusing to fill out report cards — would not harm their children.

“We're looking forward to a year of joyful teaching and learning, without the distractions of 'administrivia' that can take so much time and energy away from what we love to do best — teaching,” Lambert said.

Administrivia? Report cards? Who are they kidding?

Few parents I know would agree that report cards are a trivial part of their child's education, or that teachers are really doing them a favour by putting the time and energy they would have spent on filling them out into other aspects of teaching, noble though that may sound.”

- “Teachers, their spouses and families tend to vote much more reliably in municipal elections than do the general public. In order to help guide us in our electoral decisions it would be very helpful if you publically [*sic*] announced your position on the LRB application. If we don't hear from you we will assume that BCSPEA [*sic*] has spoken for you.

We are sure that those candidates that publically [*sic*] support a return to the bargaining table rather than an escalation through the LRB will enjoy support at the ballot box from a motivated voter block of public education supporters.”

As referenced earlier in this bulletin, strikes, by their very nature, are intended to be disruptive; this strike is disruptive. Strikes also have consequences; typically, when a union or an employer initiates a labour dispute, there is a response. The BCTF has initiated and is carrying out a strike, as is its right under the *Labour Relations Code*. The employer is responding, as is its right under the *Labour Relations Code*.

An essential services strike is a “controlled strike.”² As noted by Adjudicator Mark Brown in LRB decision [B161/2011](#) dated September 2, 2011, “The purpose of the controlled strike is to exert as much pressure on both sides without having a serious and immediate disruption on the provision of education programs.”

The BCPSEA LRB application is intended to balance the pressure — although boards of education, district staff, students, and parents are being negatively affected by the teachers’ strike activity, there is no pressure on the union to adopt a more realistic position and modify its \$2.1 billion of proposals on the bargaining table.

When will the LRB issue its decision on the BCPSEA application?

BCPSEA has asked for an expedited decision. However, the LRB determines its own procedures with respect to hearing applications and issuing decisions. We anticipate that a decision will be rendered within the next couple of weeks.

The public sector is covered by a compensation mandate. There have been compensation mandates in the public sector since the 1990s. How many unions and employers have settled under the current mandate to date?

Collective agreements covering approximately two-thirds of public sector employees have been negotiated and concluded under the current net zero compensation mandate, including 99% of healthcare workers, most employees of the BC public service, and over half of crown corporations, including BC Hydro.

The most recent settlements tentatively concluded (subject to ratification) under the compensation mandate include UBC Okanagan and the BCGEU, and BC Pavilion Corporation and the BCGEU.

[Further information](#) on this round of collective bargaining and essential services can be accessed on our public website.

² The *Labour Relations Code* does not preclude strikes in essential services but, rather, empowers the LRB to regulate or control the dispute in a way that will protect the public interest while, at the same time, replicating to the extent possible the economic pressure that would otherwise be experienced by the parties if there was an unrestricted right to strike.

Attachment: Letter from Local Teachers' Association

To the _____ School Board

Dear Trustees and Superintendent:

On behalf of the teachers of school district #XX we are contacting you in regards to the LRB application being made yesterday on your behalf. As you may be aware your representatives are applying to the LRB for the right to withhold up to 20% of teacher pay for work we are not doing. We would hope you are aware that teachers are not doing less work but rather have changed focus from administrivia to focus on just teaching and learning and we are doing this while working our tenth year under an illegal collective agreement.

It is our understanding that X of you are seeking seats on the next board. Teachers, their spouses and families tend to vote much more reliably in municipal elections then do the general public. In order to help guide us in our electoral decisions it would be very helpful if you publically announced your position on the LRB application. If we don't hear from you we will assume that BCSPEA [*sic*] has spoken for you.

We are sure that those candidates that publically support a return to the bargaining table rather than an escalation through the LRB will enjoy support at the ballot box from a motivated voter block of public education supporters.

Feel free to contact us directly if you would like to explain your position to our membership in person or through the _____ or _____ offices.

Respectfully,

_____, President, _____ Teachers' Union