

2012-01 February 20, 2012

By E-mail: Two pages plus attachments

BCTF Requests Mediator

We have this afternoon been advised by the BC Teachers' Federation (BCTF) (followed by a [news release](#)) that it has made an application to the Labour Relations Board (LRB) for mediation under section 74 of the *Labour Relations Code*.

As you know, the BCTF initiated its phase 1 strike on the first day of school in September. We are unclear as to whether the BCTF intends to "stand down" from its strike given its request for mediation. We believe it is reasonable to assume that will be the case, given the stated desire to "arrive at an agreement signed at the bargaining table."

A suspension of the strike would be consistent with the sentiments expressed in *The [Guide to the Labour Relations Code](#)* issued by the LRB:

"Strikes and lockouts are not legal while a mediation officer is involved. The parties must wait until 48 hours after the Associate Chair has advised them that he or she has received the mediator's report before they can legally engage in a strike or lockout."

Even though the Guide speaks to a situation where the application for mediation precedes a strike, it stands to reason that if the principles are applied to the situation that we are in — i.e., the strike has commenced — the BCTF would discontinue their strike during the mediation process and allow the parties' attention to be focused on achieving an agreement.

As we have previously stated, mediation is a useful tool in difficult bargaining situations. To be of value, however, there has to be a willingness to make progress. The current state of collective bargaining is additionally complicated by the pre-conditions the BCTF has set for this round of bargaining. These pre-conditions, as articulated at the January 10 bargaining session and to which the BCTF apparently remains committed, put in question the utility of mediation at this point:

- Government dropping the net zero mandate so that BCPSEA can negotiate a substantial wage improvement for teachers
- Additional improvements in both preparation time and other entitlements for teachers
- A resolution of the Bill 28 dispute that includes the return of all old class size, class composition and non-enrolling staffing ratio language to the collective agreement along with the right to negotiate improvements in this round of bargaining
- A significant restructuring of the provincial–local split of issues so that all (or perhaps nearly all) non-*Public Education Labour Relations Act* items can be negotiated at the local level in this round of bargaining
- The dropping of all employer proposals at the provincial table that they have labeled as "contract stripping" or "concessions" (including those dealing with changes to teacher evaluation, teacher professional growth, post and fill, and benefit trade-offs). A "concession" has come to mean *accept*

no agreement that would result in the BCTF, any local of the BCTF, or any member of the BCTF losing any provision, term, or benefit that existed under the terms of the previous agreement.

The LRB is in control of their processes and we will keep you informed as matters unfold.

Attachments:

BCTF Application

Excerpt from *Labour Relations Code* — section 74