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Non-Standard School Calendars

A number of school districts have passed, or are considering for future school years, non-standard school calendars, such as:

- four-day instructional week
- longer but fewer instructional days (i.e., longer Spring Break)
- modified school years (i.e., year-round schooling)

This bulletin is provided as a resource to assist districts who have passed a non-standard (or alternate/local calendar) for the 2012/2013 school year to ensure they have addressed legislative and teacher collective agreement issues. There are other issues to consider with regards to support staff collective agreements. If your district has adopted a non-standard calendar and changes to the collective agreement are required, or you require assistance determining whether changes are in fact required, or if there are collective agreement interpretation issues, please contact your BCPSEA liaison.

School Act

Section 77 of the *School Act* provides that on or before May 31 of each school year a board must, in accordance with the regulations, for each school in its school district make a school calendar for the following school year available to every parent of a student in the school.

Section 78 provides that a board may adopt, in accordance with the regulations, a school calendar for one or more of the schools in its district that differs from the standard school calendar provided that parents of the school and representatives of the employees of the board assigned to that school have been consulted.

The *School Calendar Regulation* sets out the specifics on the regulatory requirements of a local school calendar.

In particular, please note Section 5(2) of the Regulation, which provides:

- (2) *For the purposes of complying with section 78(3.1) of the Act, in respect of a local school calendar under this section, a board must:*
 - (a) *adopt the school calendar at a meeting that is open to the public, and*

- (b) *at least a month before the meeting, give notice of the meeting, together with a copy of the proposed school calendar that sets out all the information required under subsection (1), to*
- (i) *the parents of the students enrolled in each school to which the school calendar is to apply, and*
 - (ii) *representatives of employees of the board assigned to the school.*
- (3) *If an amendment to a local school calendar under this section is necessary at a time other than when a school calendar must be made available under section 77(1) of the Act, subject to section 9(2) and (3), the board must comply with subsection (2) in making the amendment.*

Collective Agreement

In addition to the legislative and consultation requirements set out in the *School Act* and the *School Calendar Regulation*, the board must also consider teacher collective agreement provisions. Collective agreement considerations include:

- Hours of work
- Maximum daily hours
- Weekly instructional maximums.

Bill 22 repealed section 78.1 of the *School Act*. Under section 78.1, some collective agreement provisions, such as hours of work or regular work year, were void to the extent that they limited a board's ability to implement a non-standard calendar.

Section 78.1 was repealed effective April 14, 2012, so as of that date, collective agreement provisions apply and where modifications are required/desired, Article D.3 of the collective agreement must be followed.

Article D.3 — Modifications to the Collective Agreement

Article D.3 of the collective agreement contains a process for the parties' negotiation of modifications where non-standard school calendars are adopted. Article D.3 does not override collective agreement provisions in the way that section 78.1 of the *School Act* did. It provides a requirement of notice to the teachers' local and sets out a process for the parties to negotiate modifications to collective agreement provisions where required.

Article D.3.2 provides:

When a school district intends to implement an alternate school calendar, written notification shall be provided to the local no later than 40 (40) working days prior to its implementation. The employer and the local shall meet within five (5) working days following receipt of such notice to negotiate modifications to the provisions of the agreement that are directly or indirectly affected by the proposed change(s). The aforesaid modifications shall preserve, to the full legal extent possible, the original intent of the agreement.

It is contemplated in this process and is, as well, most practicable, for the employer to give notice to the teachers' local (and it is recommended that it be given to support staff representatives as well) about the proposed local school calendar prior to engaging in the consultation required by the *School Act* and

School Calendar Regulation and the negotiation process required under Article D.3 of the collective agreement.

BCPSEA strongly recommends that the union local's agreement with the local school calendar and any agreed-to modifications be made in writing in case a dispute arises at a later date.

Mid-Contract Modification (MCM)

One of the considerations that should be undertaken is whether or not a MCM is necessary or desirable in respect to articles being modified. Whether or not a MCM is required depends on the magnitude/significance of the change. Is the change material enough to warrant changing administrative processes?

The standard criteria for mid-contract modifications apply:

- Operational need
- No net cost
- Does not negatively impact other school districts
- Does not undermine provincial bargaining objectives.

If you are considering a MCM, it is recommended that you contact your BCPSEA labour relations liaison for assistance and a MCM template.

Article D.3 —Expedited Arbitration

Expedited arbitration is available under Article D.3 of the collective agreement where the parties are unable to agree to changes — but only in respect to a school calendar that includes a four-day school week, a nine-day fortnight, or year-round calendar.

Article D.3.4 provides:

If the parties cannot agree on the modifications required, including whether or not a provision(s) is/are directly or indirectly affected by the proposed alternate school calendar, the matter(s) in dispute may be referred, by either party, to expedited arbitration pursuant to Article D.3.6 below for final and binding resolution.

If considering utilizing this process, it is recommended that you contact your BCPSEA labour relations liaison.

Bill 36

The provincial government recently tabled legislation to amend the *School Act*. If passed, the majority of the amendments will take effect July 1, 2012, so will not affect school calendars prior to the 2013-2014 school year.

If passed, the legislation will change an emphasis regarding school calendars from standardized to local calendars. Currently, the ministry has set a standard school calendar through regulation, and boards of education have the option of applying the standard school calendar or setting a local school calendar provided the local school calendar meets the minimum number of required minutes of instruction in the school year and requirement in the regulations.

Under Bill 36, there would no longer be a standard school calendar and a board will be required to set its own school calendar(s). The Ministry will set the minimum number of hours of instruction required in the school year, as well as rules about the type of information the local school calendar must contain.

Questions

Please direct any questions to your BCPSEA labour relations liaison.

Distribution of this Bulletin

Please ensure that this bulletin is circulated to all administrative staff in both the district office and schools who must rely on the collective agreement in the performance of their duties.