

URGENT

What are the “Rules” Governing the BCTF Strike Action?

Background

As we reported in [@issue No. 2014-02](#), on Wednesday April 16, 2014, BCPSEA and the BC Teachers' Federation (BCTF) met with Mark Brown and were able to agree on the components of a new Essential Services Designation Order (ESDO) that provides for student safety concerns and maintains all of the employer rights to respond to BCTF strike activity.

The maintenance of the employers' right to respond to BCTF strike activity and put corresponding pressure on BCTF to settle the collective bargaining dispute is critical to avoid a lengthy strike as was experienced in 2011-2012. That agreement has now been issued as an Order by the Labour Relations Board (LRB) (see *Essential Services Update* [No. 2014-01](#) dated April 17, 2014).

Unlike previous disputes, the LRB [Essential Services Designation Order](#) (ESDO) now contains the services that teachers must continue to perform in the event of a strike, in this case starting with Stage 1 of the BCTF strike, which is withdrawal of certain duties.

It is critical that all district senior staff and school-based administrators understand that the ESDO and conditions under which BCTF members undertake their strike **are very different from 2011-2012**. Misinformation is already circulating that “the rules this time are exactly the same as last time,” which may be problematic for principals in particular.

To aid clarity, following are responses to frequently asked questions.

1. Is the LRB Essential Services Designation Order (ESDO) issued for this BCTF strike the same as last time?

No. The ESDO governing this strike is very different from the last BCTF strike in 2011-2012.

2. Can the BCTF impose rules or conditions for their strike on management staff?

No. While the BCTF and its locals may determine the form of their strike action (within the LRB ESDO), the union has no right to impose conditions, rules or expectations on any management staff or the school district.

3. What rules or conditions does the ESDO impose on teachers and management?

The only service that is required for student safety at this time involves student supervision, and the ESDO includes the same provision to which BCPSEA had previously asked BCTF to agree. The ESDO provides as follows:

With respect to any before/after school, recess or noon hour supervision normally provided by teachers, before/after school supervision related only to bus drop off and pick up, and recess and noon hour supervision will continue to be provided by teachers subject to the Employer utilizing management and excluded staff to the best extent possible to replace teachers for these activities. The utilization of management and excluded personnel will be discussed locally. If the matter cannot be resolved at the local level, either party may refer the matter to the Board for mediation/adjudication.

This provision allows school districts to organize their supervision rosters in the same manner that they have done in previous disputes. Please see *Essential Services Update* [No. 2011-03](#) for some commonly asked questions around supervision scheduling during a strike.

The Order provides that teachers will be available in the event of any emergency or disaster situation, and will perform the work in question with disputes about whether or not an emergency existed to be addressed later.

4. Are there any rules or conditions that prevent school or district administrators from attending School-based Team, student IEP, LIF, or class organization meetings?

No. Administrators may attend any/all such meetings as usual. While teachers may not attend meetings as part of their strike action, there are **NO** rules or conditions preventing administrator participation. Administrators should continue to schedule such meetings; if teachers choose not to attend, record attendance and proceed as usual.

It should also be noted that section 2(3) of the LIF Regulation specifically addresses this matter. As referenced on page 52 of BCPSEA's *Guidelines for the Implementation of the Class Size and Composition Components of the Education Improvement Act (Bill 22) and Related Regulations*, updated August 2013, should teachers choose not to participate, you may proceed without their participation:

Section 2(3) of the LIF Regulation confirms that the obligation of the principal to consult with one or more of the above noted parties has been satisfied as long as a "reasonable opportunity to engage in the consultation" has been provided. If one of the listed parties does not make themselves available, waives their right, attempts to frustrate the consultation process or refuses to consult under s. 2(1)(a) of the LIF Regulation, then there is no further legal obligation on the principal to further consult under this section of the Regulation. The principal would then submit his/her report to the superintendent without the benefit and consideration of this input. Should this occur, documentation of facts and circumstances surrounding the "reasonable opportunity to engage in the consultation" should be recorded and maintained by the principal.

5. Can teachers prevent school/district administrators from visiting classrooms or other work areas during the strike?

No. School and district administrators may visit classrooms and work areas as they see fit. While discretion should be used under the current circumstance, there are no rules or conditions limiting administrator access.

6. Can teachers undertake student field trips without filing the proper paper work or forms during the strike?

No. Teachers remain responsible for filing **ALL** required paperwork and forms for student field trips they wish to undertake. While teachers may refuse to undertake field trips as part of their strike, they remain responsible for the completion of all required paperwork as well as the collection of appropriate fees, etc. for any field trips they do intend to complete. Teachers cannot absolve themselves of responsibilities/liability when they undertake field trips or similar activities just because they are on strike. If a teacher refuses to complete the required field trip paperwork, the event should be cancelled.

7. Will teachers refuse to undertake extracurricular activities?

While the union could ask teachers to refuse to undertake extracurricular activities, it is our understanding that there will be no action against extracurricular activities at this time.

8. May teachers take leave or utilize other collective agreement provisions during the strike without filing the required paperwork or forms?

No. While teachers may refuse to complete administrative paperwork as part of their strike action, they have no entitlement to leave provisions or other collective agreement provisions unless the usual required paperwork is completed. Teachers who are absent from work, etc. without filing the proper paperwork may be considered AWOL.

9. May teachers purchase items or make commitments on behalf of their school without permission or the necessary paperwork during the strike?

No. While teachers may refuse to make purchases or file paperwork during their strike, they do not have the right to make purchases or commitments without permission or completed paperwork. Teachers who make purchases or undertake commitments without permission during the strike risk being held responsible for all costs and liabilities (as they would in normal circumstances).

10. If disagreements between teachers and administrators occur during the strike, how should they be handled?

It is normal that there should be at least some disagreements during this stressful time. If face to face discussion cannot resolve the disagreement, it should be referred to the district office for follow up with the union local. Avoid confrontations whenever possible as they will not likely resolve the situation in any case and usually result in bad feelings once the strike is over.

11. Can teachers be required to attend meetings with administrators?

No. Teachers may opt out of meetings/discussions with administrators with the exception of emergency and supervision requirements as outlined in the ESDO. Even if the meeting is intended to deal with strike issues, individual teachers may refuse to meet with administrators as part of their strike action.

12. Can teachers be required to complete duties/work directed by administrators?

In most cases, teachers may refuse to complete duties/do work directed by any management staff during their strike. While administrators are not barred from asking teachers to do specific work, the teachers may rightfully refuse to accept the direction as part of their concerted strike action. The exceptions to this is student supervision and emergency provisions under the ESDO.

Next Steps

BCPSEA will be providing further information regarding the progress of the dispute and employer responses to the strike in the near future.

Questions

BCPSEA will continue to provide updates and clarify information as events progress. If you have any questions regarding essential services or strike activity, please contact:

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