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By Fax

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Our file 000572.356

Workplace Law

British Columbia Labour Relations Board
600 – 1066 West Hastings Street
Vancouver, BC
V6E 3X1

Attention: Richard S. Longpre
Vice-Chair

Dear Sirs and Mesdames:

Re: Application to Vary Essential Services Order No. 74/2014

Please accept this letter as a formal application by the British Columbia Public School Employers Association ("BCPSEA") to vary Order No. 74/2014 to include the designation of additional essential services required to enable secondary students to complete their school year, and receive final grades for courses in which they are enrolled.

Background

On June 4, 2014, the BC Teachers' Federation ("BCTF") announced that its members will vote on June 9 and 10, 2014 to escalate strike action to a full strike. This could mean the commencement of full strike activity as early as June 16, 2014.

In anticipation of the possibility that a full strike will occur commencing on June 16, 2014, and in accordance with paragraph 7 of Order No.74/2014, BCPSEA seeks the designation of the following services as essential in accordance with section 72(1)(a)(i) and (ii) of the *Code*. These designations would take effect only in the event of a full withdrawal of services:

1. All services required for the completion of Grade 10-12 report cards in accordance with *Student Progress Report Order M191/94*, including:
 - a. Preparation, invigilation and marking of school based and Provincial examinations
 - b. Compilation, entry and submission of final grades into TRAX.

This will require the designation of teaching personnel, as well as support staff personnel required to support special needs students during examination periods, and to ensure that necessary facilities and equipment are functional and ready.

The basis for this application is the serious and immediate damage which would be caused to the educational programs of secondary students if they are not able to complete required end of year examinations (both Provincial and school based), to have these examinations marked, and to ensure that final grades be compiled and entered into the relevant systems.

For Grades 10 and 11, these summative assessments are necessary to determine a student's state of readiness for the coursework of the next Grade level, and to enable parents and educators to ensure appropriate placement and support for the following school year. Final grades based only on work to date may skew grade results unfairly, resulting in potentially inaccurate, and unfair assessments of student progress. These grades are also necessary to determine eligibility for scholarships and bursaries.

In Grade 12, these assessments are necessary to enable graduation to complete students' registration in post-secondary institutions, to determine scholarship eligibility, and/or to enter the workforce. Depriving Grade 12 students of post-secondary opportunities which may not be replaceable would clearly threaten the welfare of these students within the meaning of section 72 of the *Code*.

2. All services required to complete the forms necessary for the designation of new special needs students, and maintenance of existing designations;

In order to ensure appropriate funding and support for special needs students, teaching staff are required to complete forms for the designation of new special needs students for the 2014/2015 school year, and to ensure that current designations are maintained where appropriate. These forms are provided to the Ministry of Education, which ensures that appropriate funding is provided in respect of these students. In the absence of this information, special needs students will not be identified, and may be left without the necessary support due to lack of designation and funding.

We propose that the parties reach agreement on the number of days of work required in order for teachers to provide the services specified in paragraphs 1 and 2, and that these days be compensated at the daily rate for teachers set out in the collective agreement.

3. All services to prevent or remedy damage to, or malfunction of, any equipment or facilities that may pose a potential threat to students, staff, or members of the public.

In addition to preparing facilities and equipment for the conduct of school examinations, we seek an Order requiring teaching and support staff to be available in the event of any emergency or disaster situation within a school. In the event of a dispute between BCPSEA and any Union as to

whether an emergency or disaster situation exists, employees should perform the work in question, and any dispute would be addressed later.

4. All services required to ensure that payrolls can be processed in a timely manner.

We propose that local parties negotiate and reach agreement on the number of bargaining unit employees required (if any) to ensure that payroll for all employees is processed in the normal manner. If the matter cannot be resolved at the local level, either party may refer the matter to the Board for mediation/adjudication.

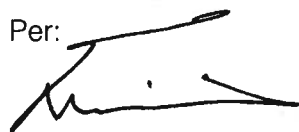
Consistent with Order 74/2014, the above services would be provided subject to the Employer utilizing management and excluded staff to the extent possible to replace teachers for these activities. As in the previous Order, the utilization of management and excluded personnel will be discussed locally. If the matter cannot be resolved at the local level, either party may refer the matter to the Board for mediation/adjudication.

As noted above, the designations BCPSEA is seeking will require the designation of teaching staff, but also support staff required to ensure that special needs students writing examinations receive required support, and that necessary facilities and equipment are prepared and ready. For this reason, we have provided notice of this application to all affected support staff unions.

Our hope is that the appropriate terms of an amended Order can be negotiated and agreed to by the parties. We therefore request that the Board arrange a case management meeting at the earliest opportunity to determine next steps.

Yours very truly,
Harris & Company LLP

Per:



Eric J. Harris, Q.C.

EJH/tal

cc BCTF, Attn: Carmela Allevato
cc Affected Support Staff Unions (See Attached List)
cc Client

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Appendix A: School District and Support Staff Union List

Canadian Union of Public Employees (CUPE)		
SD 5 Southeast Kootenay	SD 42 Maple Ridge-Pitt Meadows	SD 64 Gulf Islands
SD 6 Rocky Mountain	SD 43 Coquitlam	SD 67 Okanagan Skaha
SD 8 Kootenay Lake	SD 44 North Vancouver	SD 68 Nanaimo-Ladysmith
SD 10 Arrow Lake	SD 46 Sunshine Coast	SD 69 Qualicum
SD 19 Revelstoke	SD 47 Powell River	SD 70 Alberni
SD 20 Kootenay-Columbia	SD 48 Sea to Sky	SD 71 Comox Valley
SD 22 Vernon	SD 50 Haida Gwaii	SD 72 Campbell River
SD 23 Central Okanagan	SD 51 Boundary	SD 73 Kamloops/Thompson
SD 28 Quesnel	SD 53 Okanagan Similkameen	SD 74 Gold Trail
SD 33 Chilliwack	SD 54 Bulkley Valley	SD 75 Mission
SD 35 Langley (local 1851)	SD 57 Prince George (3742)	SD 79 Cowichan Valley
SD 35 Langley (local 1260)	SD 57 Prince George (4991)	SD 82 Coast Mountain
SD 36 Surrey	SD 58 Nicola-Similkameen	SD 83 North Okanagan-Shuswap
SD 37 Delta	SD 59 Peace River South	SD 84 Vancouver Island West
SD 38 Richmond	SD 60 Peace River North	SD 85 Vancouver Island North
SD 39 Vancouver (local 407)	SD 61 Greater Victoria (382)	SD 87 Stikine
SD 39 Vancouver (local 15)	SD 61 Greater Victoria (947)	SD 91 Nechako Lakes
SD 40 New Westminster	SD 62 Sooke	SD 92 Nisga'a
SD 41 Burnaby	SD 63 Saanich	SD 93 CSF

International Union of Operating Engineers (IUOE) SD 27 Cariboo-Chilcotin SD 39 Vancouver SD 52 Prince Rupert	Construction, Maintenance, and Allied Workers (CMAW) SD 78 Fraser-Cascade
BC Government Service Employees' Union (BCGEU) SD 59 Peace River South SD 81 Fort Nelson	Non-Teaching Staff Association (NTSA) SD 49 Central Coast
International Brotherhood of Teamsters (Teamsters) SD 34 Abbotsford SD 59 Peace River South	Trades Bargaining Council SD 39 Vancouver
West Vancouver Municipal Employees Association (WVMEA) SD 45 West Vancouver	United Steelworkers Workers' of America SD 79 Cowichan Valley