

BRITISH COLUMBIA LABOUR RELATIONS BOARD

IN THE MATTER OF AN APPLICATION PURSUANT TO  
THE *LABOUR RELATIONS CODE*, R.S.B.C. 1996, c.244

BETWEEN:

BRITISH COLUMBIA PUBLIC SCHOOL EMPLOYERS' ASSOCIATION

(the "Employer" or "BCPSEA")

AND:

BRITISH COLUMBIA TEACHERS' FEDERATION

(the "Union" or "BCTF")

BEFORE THE LABOUR )  
RELATIONS BOARD )

FRIDAY, THE 27TH DAY OF JUNE,  
2014

RICHARD S. LONGPRE, VICE-CHAIR )

INTERIM ORDER

WHEREAS the Labour Relations Board (the "Board") received an application from BCPSEA pursuant to Section 72(1) of the *Labour Relations Code* (the "Code");

AND WHEREAS the Ministry of Jobs, Tourism and Skills Training and Minister Responsible for Labour has directed the Board to designate the facilities, productions and services that the Board considers necessary or essential to prevent immediate or serious danger to the health, safety or welfare of the residents of British Columbia or to prevent immediate and serious disruption to the provision of educational programs;

AND WHEREAS the undersigned was established as a Panel of the Board pursuant to Section 117 of the Code to deal with this matter;

AND WHEREAS the Employer and the Union made submissions to the Board;

AND WHEREAS there are School Districts in B.C. which operate a number of schools that operate on a year-round trimester schedule ("Year Round Schools"). These School Districts employ a number of BCTF members in the Year Round Schools and include: Spul'u'kwuks Elementary and Garden City Elementary in Richmond; Douglas Park Spul'u'kwuks Elementary Community (Elementary) in Langley; Kanaka Creek Elementary in Maple Ridge; Cataline Elementary in Cariboo-Chilcotin; and Power Program in New Westminster (Grades 10-12);

AND WHEREAS there are year-round students in custodial or treatment centres ("Year Round Centres"). These programs are operated by School Districts and employ a number of BCTF members and include custodial centres at the Burnaby Youth Services and Prince George Custody Services and Treatment Centres at: Maples Adolescent Treatment Centre, Burnaby School District (9 teachers); Daughters and Sisters and Waypoint Treatment Programs, Surrey School District; and Portage Residential Treatment Program (Okanagan Skaha) two teachers two days per week);

AND WHEREAS the phrase "Summer School" refers to two types of programs. First, it is limited to remedial programs for students in Grades 10, 11 and 12 who have failed a course(s) and have no choice but to repeat the course in the 2014 Summer School. Second, it refers to students taking Distance Learning courses for the summer in such remedial programs;

AND WHEREAS the Employer operates year-round Distance Learning Centres ("DL Year Round") that employ a number of BCTF members;

AND WHEREAS the BCTF has decided that it will not picket or withdraw instruction at the Year Round Schools, Year Round Centres and DL Year Round Centres between July 1, 2014 and August 31, 2014;

NOW THEREFORE, PURSUANT TO SECTION 72 OF THE *LABOUR RELATIONS CODE*, THE LABOUR RELATIONS BOARD DESIGNATES THE FOLLOWING SERVICES PROVIDED BY MEMBERS OF BCTF AS ESSENTIAL:

1. The application with respect to Year Round Schools, Year Round Centres and DL Year Round Centres is adjourned generally and may be set down for hearing with 24 hours notice.
2. In order to determine whether each Summer School course should be designated as an essential service, the following steps will be taken:
  - a) By noon Wednesday, July 2, 2014, the School District will provide the local of the BCTF with the following information
    - 1) The list of all remedial Grade 10, 11 or 12 summer school courses that the School District will conduct. Enrolment in these courses will be restricted to students who failed a Grade 10, 11 or 12 course(s) and who are required to take the summer course. These are students who cannot take the failed course during the following school year.
    - 2) The names of excluded personnel in the School District who will be assigned to teach the courses in paragraph 2 a)1.

- 3) An assessment of how many teachers are necessary to teach courses in paragraph 2 a)1 above.
  - 4) In the event the School District anticipates any teachers are necessary under paragraph 2 a)3, the School District will provide the names, experience and qualification of all excluded personnel who hold a teaching certificate in the District and neighbouring School Districts who are not already assigned to teach these courses.
  - 5) The lists of students and rationale under 2a)1 shall be provided to the local by July 7, 2014.
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- b) The School District will provide the local with the accumulated information in (a) above. No later than Thursday morning, the parties will meet and attempt to agree on the number of BCTF teachers required in each District for the Summer School program. Counsel for the BCTF and BCPSEA will assist in those discussions as necessary.
  - c) There will be a case management meeting at 5:00pm on Thursday, July 3, 2014 at the Board to discuss and resolve any outstanding issues.
  - d) July 4, 2014, will be left open to undertake expedited hearings into all outstanding matters. If necessary, a hearing will be set down where evidence must be called.
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3. (a) The Employer agrees to remove its lockout provisions for teachers who are assigned to summer school work that is covered by this essential service order.

- (b) The Union will continue to picket Summer School sites.
  - (c) The Union is ordered to provide unrestricted access and egress for those persons covered by this order, and any other person or delivery required for the continued operation of the facilities, production or services designated by this order.
4. This order is in place until varied or amended by application to the Board. Either party can unilaterally terminate this order on a without prejudice basis, on or after September 1, 2014.

DATED AND EFFECTIVE at Vancouver, British Columbia, this 27th day of June, 2014.

LABOUR RELATIONS BOARD



RICHARD S. LONGPRE  
VICE-CHAIR