

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.

Provincial Collective Agreement 2013-2019 — Implementation Issues: “Struck Work”

BCPSEA is in receipt of a communication from the BC Teachers' Federation (BCTF) to its Local Presidents regarding the performance of “struck work” by teachers. Given the inaccuracies contained in this communication we are writing to ensure school districts understand the law and the position of BCPSEA in this matter.

❖ BCTF Statement

“Generally speaking, any tasks that weren’t done by bargaining unit members during the strike, won’t be done by bargaining unit members now. The principle is that the employer cannot require bargaining unit members to perform unpaid work.”

BCPSEA Position

There is **no** legal principle that entitles bargaining unit employees to refuse to perform work that would have been completed during the period of a strike or lockout. The strike has ended, and a declaration that teachers will not perform this work may amount to a declaration of an illegal strike.

Teachers will clearly need to perform, and are performing, duties that weren’t done during the strike, including all preparation activities for the commencement of classroom instruction. This is not unpaid work. Compensation for this work is included in a teacher’s annual salary for the remainder of the school year.

Boards of education may direct teachers to perform work within the scope of their duties, including the assessment and reporting of student progress. Teachers cannot refuse to perform this work. This power is limited only by the collective agreement, which may contain limits on workload or other related clauses.

Prior to asking teachers to complete work that relates to and would have been performed in the last school year (e.g., grading, report cards or other assessment/reporting relating to the 2013-2014 school year, such as completing PR cards), boards should seriously consider the necessity and utility of such work being done. If such work must be completed, then compensation on a per diem basis or release time should be provided. [Note: This does not apply to work that does not arise from a specific school year, such as the assessment of work from distance learning programs. See below for more information.]

If teachers believe work has been assigned in a manner inconsistent with the collective agreement, or inappropriately compensated, they must “work now and grieve later”; i.e., teachers must perform the work and the union may file a grievance.

❖ **BCTF Statement**

“Student reports, marks and letter grades, PR cards, filing, and other tasks from last school year (2013-14) that were not completed in June is struck work and will not be done now.”

BCPSEA Position

Teachers cannot refuse to complete assignments from the previous school year. There is no such thing as “struck work” as there is no longer a strike.

Most K-12 teachers and non-enrolling staff are provided an annual salary in exchange for the performance of services, which are performed on a school year by school year basis. Where boards direct that teachers must perform discrete services that relate to and would have been performed in the last school year (e.g., grading and assessment from the 2013-2014 school year), release time or compensation should be provided for employees to complete this work.

❖ **BCTF Statement**

“The backlog of student assignments that may have built up in DL programs should not be marked unless the employer agrees to hire additional staff (TTOC’s) to do it.”

BCPSEA Position

Assignments are submitted to Distance Learning on a continuous basis. One duty of teachers in these programs is to assess these assignments, **whenever they are submitted**. It is not open to a teacher to refuse to assess assignments on the sole basis that they were received during periods of strike action.

Boards have the authority to determine how they deal with any backlog of assignments, including whether TTOC staff will be hired. The right of boards to assign this work is restricted only by the collective agreement, including any workload or hours of work language contained therein.

Distance Learning programs operate on a year round basis. There is no formal “school year” for students in these year round programs. Boards are **not** required to provide release time for teachers to perform assigned duties in these programs, regardless of when the work would have been performed in the normal course. Teachers employed in Distance Learning programs on 10-month agreements would ordinarily deal with assignments accumulated over the summer months, and the current year is no different in this regard.

BCPSEA is aware that boards of education are currently re-engaging with all employees and staff who have been involved in the recently resolved labour dispute. We urge you to continue to be sensitive to the heightened emotions and responses that are not uncommon at such a time. While you may have the legal right to require certain work and activities to be conducted, we encourage you to take into account the current situation when you make such determinations.

Questions

If you have any questions, please contact your BCPSEA liaison.