

Supreme Court of Canada Decision re BCTF Appeal

The purpose of this bulletin is to provide follow-up to our conference calls held with school districts today regarding the Supreme Court of Canada decision allowing the BC Teachers' Federation (BCTF) appeal of the 2015 [BC Court of Appeal \(BCCA\) decision](#).

Background

Further to BCPSEA [@issue No. 2016-04](#), "Information Update: BCTF Appeal to Supreme Court of Canada," dated November 10, 2016, which provided background to the issue, and our subsequent e-mail to school districts later that same day, we advised that the Supreme Court of Canada (SCC) issued a verbal decision from the bench the morning of November 10 allowing the BCTF appeal.

You will recall that the majority of the BCCA held that the BC government did not violate the *Charter of Rights and Freedoms (Charter)* when it passed the *Education Improvement Act* (Bill 22), which removed provisions regarding class size and composition from the Provincial Collective Agreement (PCA) between BCPSEA and the BCTF. You will also recall that the Honourable Mr. Justice Donald issued a dissenting decision (refer to page 81 of the BCCA decision).

SCC Decision

The SCC has now issued the [written reasons](#) of its decision, as follows:

The appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA41560, 2015 BCCA 184, dated April 30, 2015, was heard on November 10, 2016, and the Court on that day delivered the following judgment orally:

THE CHIEF JUSTICE — The majority of the Court would allow the appeal, substantially for the reasons of Justice Donald. Justices Côté and Brown would dissent and dismiss the appeal, substantially for the reasons of the majority in the Court of Appeal.

Next Steps

It is important to note that as part of the negotiations leading to the 2013-2019 [Provincial Collective Agreement](#) between the BC Teachers' Federation and the BC Public School Employers' Association, **the two parties negotiated a re-opener in anticipation of the decision of the SCC.**

Letter of Understanding No. 17 of the PCA states:

2. The Impact of the Court Cases Related to Class Size and Composition

The above Education Fund is subject to the final appellate judgment on the appeal of the 2014 decision of Justice Griffin. If the final judgment affects the content of the collective agreement by fully or partially restoring the 2002 language, the parties will reopen the collective agreement on this issue and the parties will bargain from the restored language. **The Education Fund provisions will continue in effect until there is agreement regarding implementation and/or changes to the restored language.** *[emphasis ours]*

The issues arising from the SCC decision therefore rest with the provincial parties. There is no action required to be taken at the local school district level at this time.

As we communicated on today's calls, BCPSEA is working to develop our plan for moving forward, which will include the necessary work/liaison with school districts and other stakeholders.

We will communicate regularly with districts on this matter, and will provide further information as soon as possible.

Questions

In the meantime, if you have any questions, please contact your BCPSEA liaison.