

The purpose of this bulletin is to provide follow-up to our previous conference calls, e-mails, and other [communications](#) with school districts regarding the process arising from the November 10, 2016 Supreme Court of Canada decision allowing the BC Teachers' Federation appeal of the 2015 [BC Court of Appeal \(BCCA\) decision](#).

## Parties Reach Tentative Agreement Arising from Supreme Court of Canada Decision

Representatives of the BC Public School Employers' Association (BCPSEA), the Public Sector Employers' Council (PSEC) Secretariat, the Ministry of Education (MoE), and the BC Teachers' Federation (BCTF) **have now reached a tentative Memorandum of Agreement (MoA)** negotiated pursuant to Letter of Understanding (LoU) No. 17 to the 2013-2019 BCPSEA–BCTF Provincial Collective Agreement.

As previously reported and discussed, on November 10, 2016, the Supreme Court of Canada (SCC) issued its decision in the longstanding litigation between the BCTF and the BC government regarding the deletion of certain BCPSEA–BCTF Provincial Collective Agreement provisions by the *Education Improvement Act*. The result of the Court's decision restored the deleted provisions, which triggered the negotiation process under LoU No. 17 to the 2013-2019 BCPSEA–BCTF Provincial Collective Agreement. For reference, LoU No. 17 states:

*“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.”*

Given the changes to the public education system over the past 15 years, it was important that information and issues be carefully considered to determine how the restored language could be implemented in the current context. The MoA contains clarity related to class size and composition, non-enrolling staff and process language that are now restored.

**This tentative MoA, once approved, fully and finally resolves all matters related to the implementation of the SCC decision. As such, the Parties acknowledge that the re-opener process set out in LoU No. 17 has been completed.**

### Next Steps

- **Conference Call and Representative Council**

Further information will be released after the parties have an opportunity to communicate the details of the tentative MoA to their respective members. An implementation guide will be

available for school districts shortly and BCPSEA will support districts as they work through their 2017-2018 school year planning processes.

Representatives of the Ministry of Education, the PSEC Secretariat, and BCPSEA will participate in a conference call with boards of education hosted by the BC School Trustees Association (BCSTA). Information with respect to the call will be distributed shortly by BCSTA. In addition, BCPSEA will convene a Representative Council of boards of education; details will be distributed to boards as soon as the logistics are finalized.

#### ▪ **Approval of Tentative MoA**

As set out in LoU No. 17, the parties' discussions arising from the SCC decision have been restricted to the implementation of, and/or changes to, the restored language. The Provincial Collective Agreement has not been opened for re-negotiation; rather, discussions have been limited solely to address the changes necessary to implement/modify the language that was impacted by the SCC decision and the subject of LoU No. 17. This tentative MoA, therefore, only results in the modification of the current Provincial Collective Agreement.

Accordingly, per the BCPSEA Bylaws, the tentative MoA will go forward to the BCPSEA Board of Directors — the Public Administrator — for review and approval:

- 8.1 The Board of Directors shall manage, or supervise the management of the affairs and business of the Association and shall have authority to exercise all such powers of the Association as are not in conflict:
  - a. with the Constitution and Bylaws, and
  - b. all laws to which the Association is subject.

#### SCHEDULE 2, Part I

- 2.2 Members agree they will abide by all decisions of the Association regarding relations with any union representing their employees with respect to any matter for which the Association is the accredited bargaining agent. The directors shall from time to time issue guidelines to members in this respect.

The BCTF will conduct its approval of the tentative MoA in accordance with its own processes.

### Questions

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