

BRITISH COLUMBIA
LABOUR RELATIONS BOARD

February 28, 2012

"VIA FAX"

To Interested Parties

Dear Sirs/Mesdames:

Re: British Columbia Public School Employers' Association (on behalf of all Boards, as defined in the School Act) ("BCPSEA") -and- British Columbia Teachers' Federation ("BCTF") -and- Various Trade Unions
(Section 72(1) REPORT - Case No. 62037/11)
(Section 72(2) ORDER - Case No. 62039/11)
(Application pursuant to paragraph 3.3 of the Essential Services Order)


On February 23, 2012, BCTF applied to the Board requesting that the process set out in paragraph 3.3 of *British Columbia Public School Employers' Association*, BCLRB No. B132/2011 (the "Essential Services Order") be engaged. It is apparent that BCTF is contemplating initiating strike activity beyond Phase 1 of the BCTF job action plan.

A hearing into that application was conducted on February 27, 2012 at which the parties were given an opportunity to provide oral submissions regarding the BCTF application. In that regard, while BCPSEA sought to have the Essential Services Order revisited and revamped, both parties accepted that, if an order was to be issued by the Board at this juncture, it should be an interim one. However, the parties differed significantly regarding the terms of any such interim order.

I am satisfied that the BCTF application requires an immediate answer and that an interim order is appropriate under all the circumstances. Accordingly, enclosed is an interim order providing that answer. In that regard, while not determinative, *All Boards, as defined in the School Act, in the Province, Represented by the British Columbia Public School Employers' Association*, BCLRB No. B161/2011 provides guidance for the terms of the interim order relating to strike activity beyond Phase 1.

Yours truly,

LABOUR RELATIONS BOARD


Michael Fleming
Associate Chair, Adjudication

MF/sn

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British Columbia Public School Employers'
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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
(ON BEHALF OF ALL BOARDS, AS DEFINED IN THE SCHOOL ACT)

("BCPSEA")

AND:

BRITISH COLUMBIA TEACHERS' FEDERATION

("BCTF")

BEFORE THE LABOUR
RELATIONS BOARD

MICHAEL FLEMING
ASSOCIATE CHAIR, ADJUDICATION

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TUESDAY, THE 28TH DAY
OF FEBRUARY, 2012

INTERIM ORDER

WHEREAS the Labour Relations Board (the "Board") has received an application from BCTF requesting that the process set out in paragraph 3.3 of *British Columbia Public School Employers' Association*, BCLRB No. B132/2011 (the "Essential Services Order") be engaged with the exception of designating essential services for support union bargaining units;

AND WHEREAS the undersigned was established as a Panel of the Board pursuant to Section 117 *Labour Relations Code* (the "Code") to deal with that application;

AND WHEREAS the Essential Services Order sets out both a list of activities that BCTF members must continue during Phase 1 job action and those that BCTF members need not perform during Phase 1;

AND WHEREAS BCTF served strike notice on September 6, 2011 and the limited job action contemplated under Phase 1 has continued since that time;

AND WHEREAS paragraph 3.3 of the Essential Services Order contemplates that upon BCTF advising the Board of its intention to initiate strike activity beyond that contemplated under Phase 1, essential services for both the BCTF and all support staff bargaining units will be put in place;

AND WHEREAS BCTF has now requested the Board to give effect to paragraph 3.3 of the Essential Services Order with the exception of designating essential services for support unions;

AND WHEREAS the Board is satisfied that BCTF intends to expand its job action beyond Phase 1;

AND WHEREAS the Essential Services Order contemplates the process under paragraph 3.3 of the Essential Services Order being completed expeditiously;

AND WHEREAS the Board convened a hearing at Vancouver, BC on February 27, 2012, at which the parties appeared, represented by legal counsel;

AND WHEREAS the parties were afforded an opportunity to make submissions;

AND WHEREAS the Board is satisfied that under all the circumstances an interim order should be provided;

AND WHEREAS the Board is satisfied the terms of the order set out below will not, on an interim basis, result in the immediate and serious disruption to the provision of educational programs;

NOW THEREFORE, PURSUANT TO SECTIONS 72, 133(5), 134, AND 143 OF THE CODE, THE LABOUR RELATIONS BOARD MAKES THE FOLLOWING DECLARATIONS AND ORDERS:

1. BCPSEA and BCTF will work with the Board to designate essential service levels for the BCTF bargaining unit;
2. BCTF members may initiate job action beyond Phase 1 up to and including a complete withdrawal from all duties including instructional duties for a maximum of three consecutive instructional days (the "Initial Expanded Job Action") after providing BCPSEA with notice of not less than two school days;
3. For the remainder of the instructional days during the calendar week in which the Initial Expanded Job Action ends, BCTF members must perform at least duties as contemplated under Phase 1;
4. Following the Initial Expanded Job Action, on an interim basis during the designation process, BCTF members may withdraw from all duties including instructional duties for one out of five instructional days in each calendar week following the week in which the Initial Expanded Job Action ends (the "Continuing Job Action");
5. BCTF will provide notice of not less than two school days to BCPSEA and employers of any Continuing Job Action beyond Phase 1 it intends to undertake;
6. During any job action, BCTF members will not picket, block access or egress or otherwise restrict or cause to be restricted in any way, the full and complete access to schools by members of all support unions or impede the operation of other employers who occupy the same premises as schools or school districts;
7. No job action by BCTF members beyond that contemplated in this interim order may be undertaken except with the express authorization of the Board;

8. This interim order will be reviewed on a weekly basis commencing at the beginning of the week of March 12, 2012 and may be varied, modified or amended as the circumstances require and the Board finds to be appropriate;
9. Any issue relating to the application or interpretation of this interim order will be raised as soon as possible and will be dealt with by the Board as expeditiously as possible.

DATED AND EFFECTIVE at Vancouver, British Columbia, this 28th day of February, 2012.

LABOUR RELATIONS BOARD

A handwritten signature in black ink, appearing to read 'M. Fleming', is written over the printed name.

MICHAEL FLEMING
ASSOCIATE CHAIR, ADJUDICATION