

# **Principles Underlying Discussions and BCTF Proposal to Address the Repercussions of Justice Griffin's Decision**

October 25, 2011

## **1. Teachers must be able to bargain all working conditions**

- The working conditions of teachers are also the learning conditions of students.
- The best place to resolve issues about working conditions is at the bargaining table.
- Collective bargaining is a flexible mechanism in which the parties create rules relevant to their specific conditions.
- Collective bargaining ensures the democratic participation of employees in the governance of their workplaces. It is the most significant occasion upon which employees are able to participate in making decisions about matters that affect their working lives.
- As Justice Griffin stated in paragraph 301 of her ruling:

The historical evolution of collective bargaining as a protected right recognizes that there is a psychological benefit to workers to be able to collectively bargain over their working conditions, a benefit that goes beyond the economic benefits they might obtain. As held in *Health Services* at para. 86, recognition of the right to collectively bargain as part of the freedom to associate “reaffirms the values of dignity, personal autonomy, equality and democracy that are inherent in the *Charter*.”

## **2. Government should respect the expertise of the teaching profession**

- The profession of teaching requires a high degree of education and training.
- Teachers' expertise must inform and influence the creation of students' learning conditions, which are teachers working conditions.
- As a union of professionals, teachers are strongly committed to the welfare of students.
- The collective voice of teachers is expressed through collective bargaining.

## **3. Government must comply with the law**

- The unconstitutional legislation should be repealed immediately.
- Teachers and students should have the immediate benefit of improved conditions arising from the ruling.
- Our history since 1995 shows the imbalance created when the provincial government takes an active role in negotiations. The series of government interventions has given rise to frustration and cynicism when it is understood that either party can be beaten down by the blunt instrument of legislation.

#### **4. Parties to a collective agreement should abide by it unless changed with the agreement of both parties**

- Collective bargaining is based on the concepts of freedom of association and freedom of contract.
- The principle embedded in law is that the parties to a contract, including a collective agreement, must honour the terms of that contract.
- A bargaining system that fails to allow employees to freely negotiate their terms and conditions of employment is one that is guaranteed to bring unrest to the system.

#### **5. An injured party should be made whole**

- The ethical principle is that one should not persist in a harm and that a harm must be rectified by “making whole” the aggrieved person or organization.
- Government actions in 2002 resulted in teachers being deprived of their Charter guarantee of freedom of association.
- As Justice Griffin ruled in paragraph 295:

I conclude that the legislation purging the collective agreement of these matters, and prohibiting future collective bargaining over these matters, interfered with the teachers ability to come together to collectively pursue goals, and significantly undermined teachers’ s. 2 (d) *Charter* guarantee of freedom of association.
- Compensation should address the effects of a decade during which teachers were deprived of their collective agreement and *Charter* rights

#### **6. The parties should be able to rely on the truth of each others’ representations**