

January 5, 2017

## Update on the implementation of teachers' restored language

### What has happened since the Supreme Court of Canada announced its decision?

1. Since our landmark win at the Supreme Court of Canada, the BCTF has been working to ensure our stripped language is restored as soon as possible, and in accordance with Letter of Understanding #17. Meetings with the BC Public School Employers' Association and government representatives began in early December and are continuing.
2. A provincial grievance, as well as local grievances, have been filed by the BCTF and locals because the language was not immediately restored after the November 10, 2016 ruling. These grievances are being held in abeyance pending the outcome of provincial discussions.
3. The Federation has also been pressuring the government to collect and release data from school districts on the current staffing levels and where districts are falling short of the restored language. In particular, school districts should be focused on identifying gaps in the specialist teacher ratios and opportunities to add additional blocks to the start of the upcoming second semester in semestered secondary schools. The government and most districts have been slow to collect and produce this important information. The BCTF has filed a provincial Freedom of Information request to get the data and locals have also filed access to information grievances.
4. On January 4, 2017, **the two sides reached a Memorandum of Agreement (MOA)** in principle to address priority measures as a first step while discussions continue regarding full scope restoration of the 2002 language. The agreement in principle was subsequently approved by the BCTF Executive Committee and the employer's side. This MOA is in no way a final resolution. Details of that agreement and next steps are in the following section.

### What is the BCTF trying to achieve?

Since discussions began in early December, the BCTF has been pursuing two **key goals**. The first goal, to get as many enrolling (classroom teachers) and non-enrolling (positions like school counsellors and teacher-librarians) jobs posted as soon as possible was addressed by the January 4, 2017 Memorandum of Agreement on priority measures. The full agreement is available on the *MyBCTF.ca* portal. The highlights are:

- \$50 million in new net funding from the Ministry of Education to create 1,000–1,100 teacher full-time equivalents (FTE) for the balance of the 2016–17 school year. This funding is in addition to the \$80 million provided for this school year by the Education Fund established in the current collective agreement.
- The new funding will be used to implement two priority measures: adding enrolling-teacher positions and non-enrolling positions in schools (for example: like counsellors, school librarians, special education teachers, and other specialists across all grades).

- Allocation of the net new funding at the school district level needs to be jointly developed and decided through a district committee established by the Superintendent and the local union President. Decisions about what jobs will be posted, and where, will be decided by the local parties. There will also be a dispute resolution process if there is no agreement between the local parties.
- The funding can only be used for bargaining unit teaching positions or district-level capacity building initiatives that support teachers, including upgrading existing teacher qualifications, teacher recruitment programs, and teacher mentoring programs.

The second goal being pursued by the Federation is to have all local process language (e.g., school-based teams) implemented as soon as possible. In addition, putting process and staffing provisions in place quickly so all future school staffing and class organization decisions

are based on restoration of the stripped language. Now that the priority measures aspect of discussions has concluded, focus will now shift to class size, class composition, and caseload discussions.

- Future staffing and classroom organization decisions should be based on the restored language (with any necessary modifications to deal with out-of-date terminology).
- The Federation's focus is on increased FTE (Full-Time Equivalent) teaching positions protected by the collective agreement, not simply subject to random changes in government policy.
- Pressure must be placed on government to ensure their next provincial budget (to be announced on February 21, 2017) contains the required boost in funding to ensure districts are fully funded to deliver on the required increase in FTEs as per the restored language.

### What is the local restored language?

Each local has provided copies of the local language, which existed prior to 2002, to schools, or posted it on their websites. Summary sheets are also available from your local. In general, the restored language sets class-size limits, specialist-teacher ratios, and required support levels for inclusion of students with special needs. In some locals, there are

provisions stipulating district class-size averages, caseload limits, and maximum teaching loads for secondary school teachers.

The restored language also has provisions for various committees like the school-based team (or other terms for similar committees.)

### What staffing increases are expected?

For most areas of the province, the Federation is still waiting for all of the districts and the government to collect and release the current staffing data. However, some locals have been able to provide an analysis to give a snapshot of likely increases.

Here are some examples:

In **Saanich**—to address restored class-size provisions (if changes were implemented in

February 2017), the superintendent has estimated the district would need:

- 12 FTE elementary school teachers.
- 8.7 FTE middle school teachers.
- 9 FTE secondary school teachers (for the incoming second semester only).

In **Vancouver**—the school board conducted an analysis in 2014 that found the district would

need approximately 227 more FTE teachers to meet the restored class-size and composition requirements. The number is likely higher today as class sizes have grown in Vancouver over the past three years.

In **Mount Arrowsmith (Parksville and Qualicum)**—the local there estimates that 9 of

the district's 11 schools would require an additional FTE learning assistance or resource teacher. The district's one rural school would also see new teaching support in counselling, learning assistance, and library. Right now, the school is not receiving any specialist support.

### Is the restored language inflexible as the government claimed when they stripped it?

**No.** During the court case, Justice Griffin heard from many witnesses and ultimately concluded that the government's claims of inflexibility were based on "myth" and "hearsay." She found that there was flexibility in teachers' collective agreements.

In **Delta**—for example, class sizes could be exceeded when:

- a teacher made the request for band, choir, or drama classes.
- the school staff agreed to exceed limits for educationally sound reasons.
- additional staffing, preparation time, or release time was provided with the agreement of the teacher.

Across the province, there were also many mechanisms and remedies to address issues around class size and composition. Those

included:

language that reduced a secondary teacher's class by the number that a different class exceeded the limit.

- flexibility factors for when students arrived at a school mid-year.
- reductions in class size for split or multigrade classes
- additional support from learning assistance, special education, or resource teachers for classes with students with special needs that exceeded the limits.
- other mutually agreed-to resolutions (grievance and arbitration processes if necessary) at the local level. Various arbitrations were settled that ensured students were not moved out of classes mid-year. Remedies were awarded to avoid the removal of student's mid-year.

### What is Letter of Understanding #17?

In the current collective agreement, ratified by members in 2014, there is LOU #17 pertaining to the BCTF's court case and what would happen should the Federation win. This LOU was negotiated in response to the government's attempts with clause E80 to bargain away any potential final court win. This LOU #17 contains the Teacher Education Fund. It remains in place while the provincial parties work to come to an agreement on implementation of the restored language and/or any changes to that language.

For example, a lot of the language addressing special education contains terminology we would no longer use. Some of this language may need to be updated. The employer's side may want some changes to the 2002 language. The process that is currently under way is in keeping with this LOU. The parties are meeting to reach agreement on implementation and/or changes to the language, if any.

The BCTF representatives at the table have made it clear that proposals for substantial changes should wait until collective bargaining

opens properly in the spring of 2019. The Memorandum of Agreement reached on

January 4, 2017 in no way affects LOU #17 or a future finalized agreement.

### Can BC afford to fully implement the restored language?

**Yes.** Currently, the BC government has a \$2.24 billion surplus. During the court case, there was testimony that the government saved about \$250 to \$300 million per year by stripping

teachers' collective agreements. The government can absolutely afford to invest that money, in public education and our schools.

### What can teachers do to help?

The most important thing teachers can do to help right now is **talk to parents about the value of the restored language**. Look at the examples provided and your own language. What would that mean for your school and for the students in your class? How could more learning resource teachers or other specialists be used to support the entire school community? If your class is currently over the limits, what would a smaller class or a remedy like the examples provided (on page three) mean for you and your students?

Talk to parents about the potential answers to those questions. It's important that the government feels pressure so they act quickly and provide the necessary funding to fully implement the restored language.

There are lots of resources online to help. Go to the BCTF's YouTube, Twitter, or Facebook pages to find social media shareables for your own networks.

### Are teachers allowed to talk to parents about class-size and composition challenges?

**Yes.** In successful arbitration and court challenged, the BCTF has secured the right to Freedom of Expression for teachers as it relates to government policy. While teachers cannot criticize their direct employer because of the duty of fidelity (teachers cannot criticize school district management or the board), they are **free to speak to parents about decisions, legislation, or other matters of the provincial government that affect students**.

prevent teachers from advising parents, or discussing with them matters related to class size and composition was a violation of the right to free expression under the *Charter of Rights and Freedoms*. The BC Court of Appeal subsequently upheld the Munroe decision.

In a 2004 decision, arbitrator Don Munroe determined that attempts by school boards to

The BC Court of Appeal decision said, "It is difficult to see how discussion about class size and composition in relation to the needs of a particular child by an informed and articulate teacher could do anything but enhance confidence in the school system."