



**OKANAGAN LABOUR RELATIONS COUNCIL**

## **2017-2018 EXECUTIVE DIRECTOR'S REPORT TO THE BOARD**

An overview of the services provided to member districts  
in the 2017-2018 fiscal year.

**OLRC  
10/2/2018**

# **OLRC 2017-2018 EXECUTIVE DIRECTOR'S REPORT TO THE BOARD**

## **GOVERNANCE**

At the Annual General Meeting held on October 19, 2017, members of the Council reviewed the Board of Directors' report and financial statements for the 2016-2017 year.

Election of officers was held on February 23, 2018. The election resulted in the following: Trustee R. Zandee of SD 53 (Okanagan Similkameen), Chair, and Trustee G. Comeau of SD 58 (Nicola Similkameen), Vice-Chair. The Management Committee consists of the Chair, Vice-Chair and Secretary-Treasurer, L. Minnabarriet of SD 74 (Gold Trail).

The OLRC 2017-2018 expenditures totaled \$283,176, which was approximately 14% under the budgeted amount. Revenues for 2017-2018 totalled \$310,969 (\$330,178 including Account Receivables) which was approximately 4% above the budgeted amount. The lower expenses are largely attributed to the OLRC Executive Assistant, HR working at a 0.8 FTE. The higher revenue can be attributed to contract work performed by the Executive Director, including the completion of two on-site investigations on behalf of two-member school districts and support for the City of Grand Forks. The financial statements for 2017-2018 are presented separately from this report.

All Board meetings for the 2017-2018 year were conducted by conference call, except for the meeting on February 23, 2018, which was held in Kelowna in conjunction with a BCSTA Zone Meeting and Pro-D Presentation on the Legalization of Marijuana by Lindsie Thomson, Harris & Company and Rosalie Cress, BCPSEA.

### **OLRC Membership and Staffing**

During the 2017-2018 year the OLRC had seven (7) member school districts (SD 10, 19, 22, 51, 53, 58 and 74). The Executive Director of the OLRC also continued to provide contract district liaison services to BCPSEA and to do contract work for the City of Grand Forks. The OLRC was staffed by two employees: Ms. Tammy Sowinski, Executive Director employed on a full-time basis and Ms. Nikki Cescon, Executive Assistant, Human Resources employed at a .8 FTE level. The OLRC districts also received support from Ms. Shari Featherstone, Attendance Support and Wellness Consultant who provided contract services at a .8 FTE level during the 2017-2018 year, which will be changing to a .6 FTE level for the 2018-2019 school year.

### **OLRC Strategic Planning**

2017-2018 was the second year of the OLRC Strategic Plan. The OLRC met established goals and timelines as set out in the updated Strategic Plan approved by the Board during the 2017-2018 school year. The Executive Director provided an updated copy of the strategic plan at every 2017/2018 Board meeting and spoke to the status of action plan items and whether modifications were required due to changing priorities.

As we start the third year of the Strategic Plan, the OLRC website development is nearing completion which will provide the organization with an online presence as well as provide an

information sharing platform for our OLRC members, including resources such as Collective Agreements, Collective Bargaining information, OLRC Board updates and Attendance Wellness & Support.

## **NEGOTIATIONS**

The 2017-2018 school year was the last year of the closed term of the current CUPE and Teacher collective agreements. Both agreements expire in June 2019 and they will be negotiated under the government's 2019 Service Delivery Mandate.

### **Teacher Bargaining**

BCPSEA has been engaged in a provincial consultation process with trustees and staff throughout the K-12 sector to prepare for teacher bargaining. In the spring of 2017 regional meetings with trustees and staff were held throughout the province to gather feedback on the desired approach and vision for the next round of bargaining. As a result of this phase one feedback, BCPSEA produced a document entitled "BCPSEA-BCTF Collective Bargaining 2019: Building a Vision for Success" in August 2017. Phase two of the consultation process involved an ongoing survey to gather feedback on the draft vision and to solicit input on bargaining priorities as a first step in establishing bargaining themes. The results of the survey were presented and discussed at the BCPSEA AGM in January 2018. Phase 3 of consultation took place from October through January 2018 when BCPSEA conducted focus groups and large group discussions with trustees at BCSTA branch meetings and at the BCPSEA AGM. The resulting "Big Ideas – Bargaining 2019" report was distributed in February 2018. Phase 4 of the consultation process took place in May-June 2018 and involved meetings with senior staff to gather feedback on how the five major themes intersect with operational concerns and to discuss the day to day challenges faced by districts.

The BCTF has been advocating for an early start to collective bargaining, however, neither the government nor BCPSEA has agreed to do so. Prior to commencing bargaining the employer has an interest in utilizing the information gathered in the thorough employer consultation process to develop a well thought out bargaining plan which must be approved by the BCPSEA Board and PSEC. The upcoming trustee elections in the fall of 2018 will result in new leadership who need to be included in the bargaining planning process as well. There is also an upcoming provincial arbitration on class composition which will inform bargaining. Given these issues it is unlikely that provincial teacher bargaining will commence prior to February or March 2019.

Local teacher bargaining will also be taking place in the upcoming year and the Executive Director will be available to support districts in preparing for this process.

### **Support Staff Bargaining**

The local support staff negotiations are less impacted by educational priorities and the class size and composition challenges facing the teacher negotiations. Also, given the largely local nature of these negotiations, a broad-based provincial consultation process has not taken place. Thus, when CUPE and the support staff unions expressed an interest in starting the provincial framework negotiations early the government and BCPSEA were willing to do so. The Executive Director was on the employer bargaining team for support staff negotiations again this round, as has been the case since 2010. There were six days of negotiations in June 2018 which resulted in

a tentative Provincial Framework Agreement (PFA) being reached on June 14, 2018. Unfortunately, the support staff unions did not ratify this tentative agreement so the parties returned to the table for another two days of bargaining in July and the parties reached a slightly revised tentative Provincial Framework Agreement under the mandate established by the provincial government on July 12, 2018. The support staff unions are scheduled to vote on the ratification of the agreement on September 25, 2018.

It is anticipated that once the PFA is ratified that there will be interest from CUPE and the support staff unions to begin local bargaining as early as the fall of 2018. Bargaining prior to March 2019 is not mandatory and requires mutual agreement of both parties. Prior to commencing bargaining school districts will need to have an approved bargaining plan in place. During the spring of 2018 the Executive Director held initial meetings with all school districts for the purposes of identifying broad bargaining objectives and areas of the collective agreement which were creating difficulty for the district in achieving operational objectives or which had been the cause of interpretation difficulty of grievance activity. These initial meetings were used to create draft bargaining proposals for each school district. These draft proposals have been distributed to all districts and will be further vetted and adjusted to ensure alignment with district priorities, the PFA and the PSEC mandate before being finalized and included in the districts bargaining plans.

### **CUPE 523 Collective Bargaining Changes**

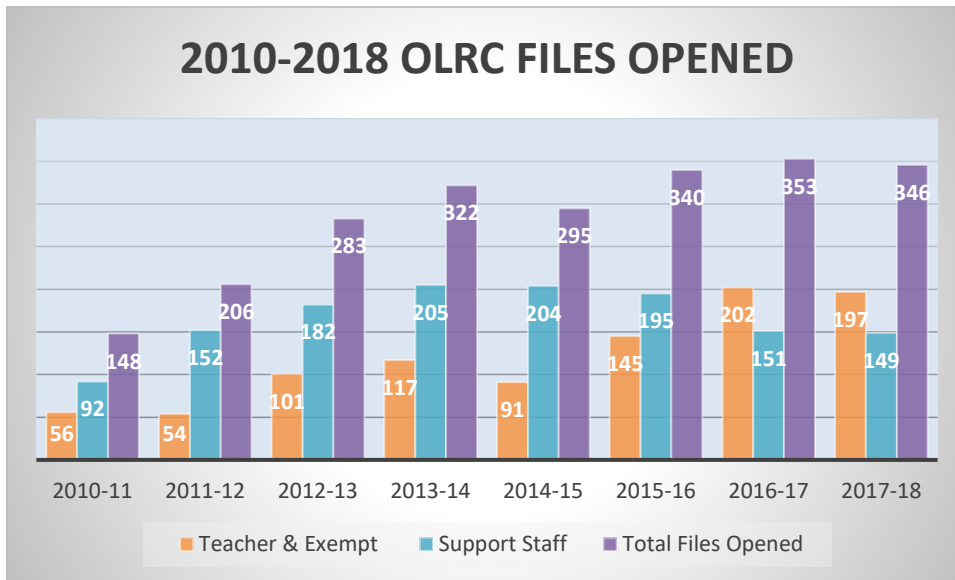
During the 2017-2018 year, following their decision to cease their membership in the OLRC, SD 67 expressed their intention to bargain their own collective agreement with CUPE 523 rather than be part of a common collective agreement between CUPE 523 and School Districts 53, 67 and 83. To realize this intention, the Board of Education of SD 67 (Okanagan Skaha) passed a motion to revoke the delegation of authority for bargaining to the OLRC. This motion enables the Board of SD 67 to ratify the collective agreement with CUPE vs have the collective agreement be ratified by the OLRC Board. At the start of the 2018-2019 school year, School District 83 (North Okanagan Shuswap), who is not a member school district of the OLRC, but who has been part of a common collective agreement with CUPE Local 523, also revoked their delegation of authority to the OLRC and will be bargaining a separate collective agreement. The management of SD 83 has asked the Executive Director to discuss doing contract work to support them in the bargaining process.

As a consequence of these decisions, the Executive Director has recommended that SD 53 also revoke the delegation of bargaining authority to the OLRC. This will not change the support being provided by the OLRC in the bargaining process but it will mean that it is the SD 53 Board that will ratify the collective agreement with CUPE instead of the OLRC Board. The CUPE Local 523 collective agreement historically had as many as ten school districts covered under a common collective agreement. This has reduced several times over the years as school districts expressed the desire to bargain independently or new CUPE locals were formed to the point where now all school districts in the interior and within the OLRC will have their own collective agreements with CUPE. The governance of collective agreements is well placed in the Boards of Education of individual school districts and the work of the OLRC to support school districts in preparing for, conducting and administering the resulting collective agreements will continue largely unchanged for all member school districts.

## LABOUR RELATIONS

There were ongoing requests for OLRC input on issues dealing with teachers, support staff and exempt staff in the 2017-2018 year. The OLRC continues to support districts in investigations, discipline, contract interpretation, grievance and arbitration management, medical leave and accommodation issues, employee conflict, harassment claims and exempt staffing issues.

During the 2017-2018 year there were 346 files opened which included 197 files involving teacher or administrative officer issues and 149 files involving support staff. After seeing a year to year increase for the period from 2010-2016 the file counts have remained relatively stable over the past two years. This reflects the current capacity of the organization.



### Investigations and Discipline

Over the past year the OLRC supported districts in 62 investigations (33 teacher or AO and 29 support staff) to pursue complaints from parents, students, co-workers, or district staff which, if proven to be true, could result in a disciplinary outcome. During investigations facts, motivation and knowledge of expectations are clarified. The outcome to the individual employee is based on all the witness and documentary information on the current incident, the information provided by the employee, a review of their past performance, a credibility assessment, the standards in the work place and the application of legal principles. At the end of an investigation it is often the case that the facts are quite different than they first appear. This shows how important it is to conduct a thorough investigation prior to determining what, if any, discipline is appropriate.

The following are a sample of the investigations where the OLRC provided support to districts in the past year:

## Teachers and AO's

- *Shop teacher failing to ensure a safe learning environment and follow shop safety protocol. Investigation completed and suspension issued.*
- *Teacher using inappropriate language and physical conduct toward a student. Investigation completed and suspension issued.*
- *Teacher using inappropriate physical contact with student. Investigation completed and suspension issued.*
- *Unauthorized use and distribution of secure provincial exam content by two teachers. Investigation completed and suspensions issued.*
- *Teacher improperly directing fundraising money outside of school to be used for unintended purpose. Investigation completed and suspension recommended after teacher returns from medical leave.*
- *Teacher hired and didn't disclose that the TRB had cancelled his teaching certificate. Once notified of the investigation, the teacher resigned prior to commencing employment.*
- *Teacher posted inappropriate and concerning comment on Facebook. Investigation completed and employee resigned.*
- *Teacher communicating with other teachers in an inappropriate and disrespectful manner. Investigation completed and suspension issued due to previous issues.*
- *Complaint of Inappropriate and insensitive behaviour and comments by a teacher towards a student with special educational needs. Investigation completed, letter of discipline issued and teacher resigned.*
- *Complaint of Inappropriate language and physical conduct by a teacher toward student. Investigation completed – no findings of misconduct, letter of direction issued.*
- *Complaint of inappropriate communication by a teacher towards a with student and failure to address parent's concern about student. Investigation completed with no findings of misconduct. A letter of expectations was provided.*
- *Complaint of inappropriate physical contact and comments by a teacher towards students in a student altercation in the shop. Investigation completed and letter of expectations issued.*
- *Concern regarding inappropriate and unprofessional comments by a teacher towards administrator. Investigation completed and letter of direction issued.*
- *Complaint of inappropriate comments & class room behaviour towards students. Investigation completed and letter of direction issued.*
- *Principal failed to inform district and seek administrator approval on community project. Investigation completed and letter of discipline issued.*
- *Principal investigation arising from complaint about physical incident with student. Investigation completed and letter of direction issued.*
- *Principal investigation arising from complaint of inappropriate physical contact with special needs student. Investigation completed with no findings of misconduct.*

None of the disciplinary sanctions issued because of investigations into teacher or principal misconduct have proceeded to arbitration or civil action.

#### Support Staff

- *Electrician operating school district vehicle with suspended driver's licence. Investigation completed and employment was terminated.*
- *Maintenance employee received an impaired driving charge after failing breathalyzer test on route to an evening call out; received 90 day driving prohibition. Investigation completed and suspension issued.*
- *Parent complaint about Bus Driver using physical contact towards student. Investigation completed and suspension and letter of direction issued.*
- *Manager thought they smelt alcohol on breath of Bus Driver. Investigation completed, and letter of direction issued.*
- *Parent complaint about Bus Driver conduct towards student while trying to teach them a lesson. Investigation completed and letter of discipline issued.*
- *EA harassment complaint against two teachers. Investigation completed with no findings of harassment.*
- *Complaint about EA not performing job duties and being attentive to student. Investigation completed and letter of direction issued.*
- *Inappropriate physical contact with student by EA. Investigation completed and letter of direction issued.*
- *Parent complaint alleging employee hosting party for underaged students. Investigation completed and no findings of misconduct.*
- *Custodian suspected of taking item out of an office and accessing office with closed door. Investigation completed and letter of direction issued.*
- *Parent complaint about bus driver mistreating child. Investigation completed and no findings of misconduct.*
- *Parent complaint about Bus Driver dropping students at school unattended followed by driver having altercation with parent. Investigation completed and letter of direction issued.*
- *Inappropriate comments and conduct by Bus Driver towards co-worker. Investigation completed and letter of direction issued.*
- *Inappropriate comments and conduct by Bus Driver towards parent. Investigation completed and letter of direction issued.*

None of the disciplinary sanctions issued because of investigations into CUPE misconduct have proceeded to arbitration.

## Grievances and Arbitrations

Many issues that the OLRC assists districts with are resolved without grievance. When grievances are filed many are resolved prior to traditional arbitration; however, there is a time and a place for arbitration and there were some active files which either are going or still could proceed to arbitration as of the end of June 2018.

Following are some of the grievances where the OLRC provided support to districts:

### Teachers

- *LOU 17 MoA grievance regarding the class sizes of Home Economics and Science 8 and 9. Grievance resolved.*
- *LOU 17 MoA grievance regarding provision of release time. Grievance denied. Four party call held. Awaiting determination from BCTF regarding referral to arbitration.*
- *LOU 17 MoA grievance regarding best efforts as it relates to placement of students mid-year. Grievance denied. Four party call held. Awaiting determination from BCTF regarding referral to arbitration.*
- *Union leave grievance. Union grieving the interpretation of what leaves are provided for "union officials". Grievance denied, referred to arbitration.*
- *Benefits grievance. Grievance alleging employer has the obligation to pay for benefits premiums regardless of whether teachers enroll in the benefit. Grievance denied.*
- *Scale placement grievance. Regarding the inclusion of private school experience toward wage scale placement. Grievance denied. Referred to arbitration.*
- *TTOC Pay grievance. Union grieving that the employer has paid TTOC's less than required. Clarification of language and practice provided to the union.*
- *Maternity leave grievance. Union grieving that teacher should be returned to exactly the same position as they left prior to maternity leave. Grievance denied. Referred to arbitration.*
- *Time loss grievance. Union grieving that teachers should not lose pay when they did not attend work as a result of flooding. Grievance denied.*
- *Posting vacant positions. Union grieving that physical postings need to be placed on bulletin boards not just electronic. Grievance resolved.*
- *Bus supervision grievance. Union grievance that teacher was improperly required to do bus supervision for student with special needs. Grievance was withdrawn based on district's confirmation that teachers are not responsible for bus supervision unless it is an emergency.*
- *Evaluation grievance. Union grieved the districts right to conduct unscheduled observations. Grievance withdrawn.*
- *Discipline grievance. Union grieved suspension of teachers who inappropriately shared secure provincial exam material. Grievance resolved with suspension still on file.*
- *Teacher benefit coverage. Union grieving that a teachers' benefits were stopped upon retirement on June 30<sup>th</sup> vs extending through the summer. Referred to arbitration.*



## Support Staff

- *Assignment of duties. Grievance regarding Mechanic being assigned bus run when job description indicates only in emergent situations should Mechanic drive bus. Grievance denied. Referred to arbitration.*
- *Grievance regarding EA work being issued to Aboriginal Support Workers. Grievance denied.*
- *Termination grievance. Grievance regarding employee termination for just cause. Grievance referred to arbitration then withdrawn. Employee did not return to work.*
- *Bus Driver assignment process. Multiple grievances in district regarding Bus Driver assignment process for extra trips and filling in for regular driver vacancies. Grievances denied and resolved based on merits. Objective to amend language in bargaining.*
- *Accommodation grievance. Union alleging employee was not properly accommodated when employee was not granted a posting applied for, no formal request for accommodation had been made. Grievance resolved once more medical information was obtained.*
- *Grievance regarding letter of direction issued to Custodian requesting he provide current phone number. Union stating collective agreement doesn't require employees to have a phone. Grievance resolved.*
- *Grievance regarding lay off of district spare Bus Driver position. Union grieving district had no bonafide reason to eliminate position. Grievance denied.*

## **OTHER ISSUES**

### **BCPSEA District Liaison Contract**

The Executive Director has continued to provide contract district liaison services to OLRC member school districts on behalf of BCPSEA. As a result of this contract, the Executive Director participates in regular calls and meetings with BCPSEA staff, communicates provincial information to OLRC member districts, facilitates the four-party resolution process for LOU 17 disputes, supports the mid-contract modification process and ensures appropriate responses to district inquiries as well as communicating district issues to BCPSEA. This contract has been beneficial for both BCPSEA and OLRC member school districts.

### **Attendance Support and Wellness Initiative**

Work on the provincial Attendance Support and Wellness (ASW) initiative continued with all seven districts through the 2017-2018 year. Accurate analysis of incidental absences is a key aspect of the provincial initiative and the work of the third party data specialist has so far resulted in two districts having a suitable Excel tool that allows them to independently analyze their absence data. These districts are both proceeding with full implementation of the ASW initiative. Development of data analysis tools for the remaining five districts is ongoing however a variety of challenges have slowed the progress including: retirements/resignations among district staff (resulting in loss of awareness and continuity about the ASW initiative), problem-

solving district level data input/output problems (at times this required liaising with district personnel and tech support from the database provider), and the availability of the 3rd party data specialist.

In addition to work on achieving the required analysis of attendance data, the ASW Consultant continued to assist districts to adopt consistent and objective Disability Management processes in the areas of: the management of full and partial medical leaves, return to work planning and all aspects of the duty to accommodate. Regular and ongoing support was provided as needed in the form of customized documents and advice/coaching to districts as they methodically work through routine and complex situations.

Moving forward, the concept of wellness as a workplace cultural attribute will be further developed with districts, beginning with increasing awareness about the current state of wellbeing of both employee and the workplace. The goal is for each district to develop a wellness strategy that encourages individual wellbeing and also calls for a healthy work environment.

### **Workshop Presentations**

During the 2017/18 year the Executive Director made presentations to the management staff in a few districts in October and February on the role of Management in Education, Investigations and Professional Boundaries.

As part of the contract with BCPSEA, the Executive Director also participated with BCPSEA in providing a full day training session on Professional Boundaries for administrators to a non-member school district.

### **Job Evaluation**

The OLRC continues to provide direct assistance to SD 53, 67, 83 and SD 22 with their job evaluation plan by assisting with job descriptions, coordinating, conducting job evaluation meetings, and maintaining records. Other districts access support on an as needed basis. BCPSEA and CUPE are working on a provincial updating of the job evaluation plan and will be conducting regional pilots in the 2018-2019 school year.

Respectfully submitted to the Okanagan Labour Relations Council Board of Directors.