BRITISH COLUMBIA PUBLIC SCHOOL EMPLOYERS' ASSOCIATION

Guide Teacher Bargaining: Attachment 3

BCPSEA Policy 95-05
Approved: December 1995
Amended: August 2012; November 2012

Policies and Procedures for Teacher Local Matters Bargaining

Background

Section 4 of the *Public Education Labour Relations Act* (PELRA) deems the British Columbia Public School Employers' Association (BCPSEA) to be the accredited bargaining agent for every board of education in British Columbia.

Legislative and Statutory Context

Section 8 of PELRA states:

(1) The employers' association must establish policies and procedures with respect to delegation of authority to boards of education to enter into local agreements with teachers' unions in respect of any local matters, except as provided in subsection (4).

(4) The provincial union and the employers' association must not delegate authority to declare or authorize a strike or lockout, and no teachers' union or board of education may declare or authorize a strike or lockout.

Pursuant to Section 8 of PELRA, BCPSEA's Constitution and Bylaws state:

SCHEDULE 2, Part 2

2.3 The directors must adopt policies and procedures for delegation of authority to boards of education for matters involving support staff unions and for local matters involving teachers' unions, in accordance with the provisions of this Part.

2.5 The policies and procedures adopted respecting teacher unions shall incorporate the following principles:

a. authority to negotiate agreements with respect to local matters shall be delegated to members or groups of members;

b. authority to resolve disputes arising out of the collective agreement which have only a local impact shall be delegated to members or groups of members;

c. on local matters, members or groups of members shall inform the Association of their bargaining proposals, of proposals by their union(s), and of significant developments in collective bargaining and contract administration;

d. proposed agreements with respect to local matters shall be ratified by the board of education affected or by a group of boards of education affected according to

that group's rules, and by the Association;

e. each collective agreement shall be presented for ratification to the next Board of Directors' meeting following ratification by the member school board or such other time as the Directors may determine and ratification of such agreements by the Association shall be deemed to occur unless 2/3 of the Directors vote to reject the agreement.

Policy Information

BCPSEA policy is shaped by the following elements:

1. Respect for the role of boards of education.
2. Respect for the statutory obligations of boards of education and BCPSEA under PELRA.
3. Respect for the obligations of the Public Sector Employers' Council (PSEC) and BCPSEA under the. It should be noted that local teacher bargaining is subject to the *Public Sector Employers Act* compensation and bargaining mandates established by government.
4. BCPSEA has a duty to bargain in good faith and to make every reasonable effort to conclude an agreement with the B.C. Teachers' Federation (BCTF). Each board of education also has a duty to bargain in good faith and to make every reasonable effort to conclude a local matters agreement with their local teachers' association/union.

BCPSEA Delegation of Authority Policy

1. BCPSEA delegates to each board of education or to a group of boards of education the authority to enter into a local matters agreement with the local teachers' union for those items which have been designated as local items by BCPSEA and BCTF pursuant to Section 8 of PELRA. This agreement is subject to ratification by BCPSEA.
2. Pursuant to the BCPSEA Bylaws, these policies set out the following responsibilities for each board of education or group of boards of education:

   2.1 To inform BCPSEA of its bargaining proposals;

   2.2 To inform BCPSEA of the bargaining proposals of the local teachers' association/union;

   2.3 To inform BCPSEA of developments in the negotiations process;

   2.4 To adhere to direction from the BCPSEA Board of Directors with respect to the conduct of local bargaining;

   2.5 To keep current on provincial developments communicated to the boards of education by BCPSEA.

3. Boards of education should note the provisions of Section 8 (4) of PELRA:

   > The provincial union and the employers' association must not delegate authority to declare or authorize a strike or lockout, and no teachers' union or board of education may declare or authorize a strike or lockout.

   Note in this section from PELRA that the phrase "teachers' union" refers to the local teachers' association; provincial union refers to the BCTF.

Local Bargaining Procedures

1. Boards should be aware of the following procedures which are to be used in the local bargaining process.

    1.1 Upon receiving the proposals from the local teachers' union, the board of education should determine which items, if any, are in Appendix 1 and which items are in Appendix 2 of the approved Provincial-Local Split.

    If the item is in Appendix 1 (Provincial items), the board of education should inform the local teachers' association/union that it is a provincial matter for negotiation at the provincial table. The board of education should also notify the BCPSEA of this item.

    If the item is in Appendix 2 (Local items), it is properly dealt with at the local table.

    If it is a new item (neither in Appendix 1 or Appendix 2), the board of education should immediately contact the BCPSEA teacher bargaining team before discussing the matter with the local teachers' association/union. BCPSEA will advise the board of education of the proper action with respect to any new items.

    1.2 Boards of education should advise their local union that they will only bargain the items in the initial package tabled by both parties. There are three possible exceptions to this:

        1. First, new items may be tabled if they arise out of events occurring subsequent to the start of bargaining (e.g., a proposed change in legislation or regulation).
        2. Second, BCPSEA and BCTF may jointly ask the local level to address certain matters that are provincial (List #2 items). In this case, the local level will try to reach an agreement that they would recommend for acceptance by the provincial table. If they cannot reach an acceptable solution, the matter will be resolved at the provincial table.
        3. Third, if the parties agree that it is in order for a new item to be discussed, it may come to the table.

    1.3 Each party is responsible for managing its own agenda. For a board of education, this means that it looks after the resolution of its initiatives at the local bargaining table, either by negotiating them into the local agreement or, if impasse is reached, by withdrawing them or choosing to forward them to provincial bargaining. A board of education's decision to refer one of its agenda items to the provincial table does not require the agreement of the local union.

2. A local agreement shall not be effective until it has been ratified by the BCPSEA Board of Directors in accordance with the following ratification process:

    2.1 Notification by the board of education to the union of the ratification process

    As a courtesy and to establish a common understanding of the employer's legal obligation, it is suggested that board of education negotiators advise the union of the requirement for BCPSEA ratification, as well as the board of education's own ratification process.

    For the information of boards of education, a copy of this policy will be given to the BCTF bargaining team.

    2.2 Approval by the board of education

Boards of education will either be approving a Memorandum of Agreement or an "impasse package."

1. A Memorandum of Agreement is defined as local agreement on all items (except for those withdrawn by the parties) which are items that have been discussed at the local level.
2. An "impasse package" is defined as the list of items tentatively agreed to at the local bargaining table to the point impasse is reached.

   The board should vote to approve or reject in either situation. This is necessary to ensure the board of education is prepared to accept the product of local bargaining.

   Once a Memorandum of Agreement or "impasse package" has been approved by the board of education, it should then be submitted to the BCPSEA Board of Directors. If the parties reached impasse, the board of education should also forward any item(s) from the board's local agenda that were on the bargaining table at the point of impasse which the board wishes to refer to the provincial table pursuant to the legislation.

2.3 Rejection of either the Memorandum of Agreement or impasse package

If either a Memorandum of Agreement or impasse package is rejected by either or both parties, the board of education is obligated to inform BCPSEA:

1. of the rejection and their assessment of reason(s) for this rejection from each party's perspective;
2. whether more negotiating meetings might lead to a modified package that would be acceptable to either or both;
3. if further meetings are not going to occur, determine which items from the board's agenda it wishes to have referred to provincial bargaining.

2.4 Form of submission to the BCPSEA Board

The submission to the BCPSEA Board of Directors should contain the following information:

In the case of a Memorandum of Agreement

1. a copy of the complete Memorandum of Agreement including other binding commitments such as Letters of Understanding or Letters of Intent, etc.
2. a listing of the following:
   a. which clauses are carried forward, but with changed wording — Changes to the agreement should be clearly identified with new language in bold and deleted language struck through.;
   b. new clauses – identified with bold type;
   c. any other information that the board of education believes is relevant or useful to the Board of Directors.

In the case of an "impasse package"

1. a copy of those clauses agreed to by the parties prior to impasse;

2. a listing of the following for those clauses agreed to by the parties prior to impasse:

    a. which clauses are carried forward, but with changed wording — changes to the agreement should be clearly identified with new language in bold and deleted language struck through.;

    b. new clauses – identified with bold type;

    c. any other information that the board of education believes is relevant or useful to the Board of Directors.

3. a copy of those proposals on the table over which impasse was reached together with:

    a. an identification of which party proposed the clause;

    b. the last position of each party with respect to the clause, together with a description of the difference between the parties that is not obvious from examining the last positions.

Please note the following:

1. This is the final opportunity for boards of education to indicate if they wish to have any of their unresolved clauses raised to provincial bargaining.

2. Any new items that were on the table at the point of impasse and do not get referred to the provincial table by either party are considered to be withdrawn.

3. Submissions to the Board of Directors should be sent to the BCPSEA office c/o the BCPSEA teacher bargaining team.

2.5 It should be emphasized that only those items which are unresolved at time of impasse may be referred by the respective party to its provincial organization for provincial bargaining. Except as provided in number 5.1.2 above, a board of education cannot introduce new items at this point.

Please note that BCPSEA will take the same perspective with the BCTF if it raises an issue from a district that was not part of the original local agenda.

2.6 BCPSEA will prepare an analysis and recommendation for the Board of Directors on the following:

1. ratification of the local agreement, or in the case of an “impasse package,” those items agreed to by the parties;

2. whether any unresolved local issues which a district wishes to have bargained should be brought to the provincial bargaining table, but not advanced.

2.7 The BCPSEA Board of Directors shall consider the ratification of the local agreement at its next regularly scheduled Board meeting following ratification by the board of education, or such other time as the Directors may determine. Ratification of such agreement by the Association shall be deemed to occur unless 2/3 of the Directors vote to reject an agreement. Items referred by boards to provincial bargaining will be carried forward or not on the basis of a simple majority vote of the Directors.

2.8 The ratification process for local items raised to the provincial table is as follows:

1. BCPSEA will consult with the member to determine why it requires the change it has referred to provincial bargaining and will discuss, if necessary, any variations to the requested change;

2. Where a local item is tabled by the BCTF, BCPSEA will consult with the member to determine its reasons for rejecting the local item and the impact of accepting it or some variation of it;

3. Agreement reached between the BCTF and BCPSEA on local items placed on the provincial bargaining table will be included in the items voted on by the entire membership as part of the ratification process for the provincial agreement.

   Although voted on by the entire membership, these local items are only applicable to the district(s) named beside them on the list of local items negotiated provincially.

2.9 While ratification of a local agreement may occur at an earlier date than ratification of a provincial agreement, the local agreement will not take effect until the provincial agreement takes effect.