



B.C. Principals' & Vice-Principals' Association

Quality Leadership in Education

30 September 2003

Mr. Don Wright
c/o Deputy Minister's Office
Ministry of Skills, Development and Labour
PO Box 9594, Stn Prov Govt
Victoria, BC V8W 9K4

Dear Don,

Thank you for the opportunity to provide comments on your assignment to develop terms of reference for a commission to review collective bargaining in the public education sector.

The BCPVPA supports the Hon. Graham Bruce's initiative and would be pleased to provide advice to the commission from our perspective. Our members believe that the current bargaining process has not worked for a variety of reasons. The tension and turmoil surrounding the ongoing conflict between the union and the management's agent, the BCPSEA, has been complicated by the involvement of various governments in legislating settlements. This has had a negative impact on the culture of schools that eventually hinders our ability to serve students.

Our Association believes that teachers are entitled to compensation and reasonable benefits that reflect the important work they do. To ensure that these are in place and that the system can function smoothly and effectively, there are three fundamental questions that should be addressed by the commission:

Who should bargain?

Since the government funds the system, and since the cost of personnel is the major budget item, the government must be involved in the bargaining process through an agent of some kind. The government cannot abdicate this responsibility to school districts and be held accountable for their varied negotiation results. This approach created significant problems before the introduction of province-wide bargaining.

What should be bargained?

The scope of the current bargaining process is too broad. This is a fundamental problem that must be resolved. Too many issues have been captured in collective agreements that are properly management rights or matters of public policy

How should disputes be resolved?

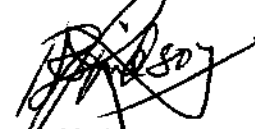
They should be resolved in ways that have no impact on students. We need to be creative. The industrial model we currently use should not have been imposed on the public education sector.

We must find other ways to resolve disputes that can create a more positive human resources climate within the system.

The BCPVPA has had a strong interest in these issues for some time. In 1991, it made a presentation to then Minister of Education, Stan Hagen that identified some of these same issues. (I have attached a copy for your information). The Association is willing to be involved again in this process wherever appropriate. Once the commission has been established, we will be prepared to make a presentation based on consultation with our members.

I look forward to discussing our suggestions in more detail.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Bob Lindsay", written over a circular stamp or seal.

Bob Lindsay
President

BL:N

British Columbia

Principals' and Vice-Principals' Association

A Brief on Teacher Collective Bargaining

in Response to

The Minister of Education

Presented to

**The Honourable Stanley B. Hagen
Minister of Education**

September 12, 1991

BCPVPA Response to the Minister Concerning Possible Changes to the Bargaining Process for Teachers in British Columbia

I. Introduction

The B.C. Principals' and Vice-Principals' Association is pleased to respond to the Minister's request to participate in a review of the collective bargaining system for teachers in British Columbia. However, we must state at the outset we have concerns with the process being followed.

The Minister's invitation seems to suggest that a particular alternative to the present system has been selected and we are being asked to suggest how best to make this system work. Whether or not we support the option chosen by the Minister, we do not believe this process will encourage positive participation by all interested parties. On the contrary, it could lead to further conflict and confrontation.

This is an important, complex and sensitive issue which does not lend itself to simple solutions. We respectfully suggest that the Minister consider extending his timeline to permit more reasoned reaction and discussion. This could lead to a more satisfactory outcome - namely a better system of collective bargaining for teachers which will be effective in the longer term.

We suggest the Minister create a task force including ministry staff, representatives of trustees and all professional groups to examine the issues and the initial discussion papers and report back within a reasonably short period of time. We believe that our future advice to the Minister would be refined and improved by face to face discussions with our education partners.

We are aware that this issue must be discussed within a highly volatile political climate. However, we hope that political considerations can be set aside for the benefit of the educational system, particularly our students.

Despite our misgivings with the process, we have attempted to identify issues and concerns with the present system from the perspective of school administrators. Rather than propose simple solutions to complex questions we have attempted to bring forward the basic issues which must be addressed if the current, seriously flawed system is to be improved.

II. The Issues

Our members believe the present bargaining system has had a negative impact on the educational programs of our students. We have a great deal of concern and professional discomfort with any bargaining process in which disputes are resolved at great cost to the students who have no recourse of any kind to protect themselves.

Government, school boards and teachers may argue over the degree of impact on students, the number of days lost per capita, or the comparison with other provinces or countries to justify the process. We believe that no student time should be lost to resolve disputes between those responsible as employers and their employees.

The crux of the matter is that a bargaining system based on the current industrial model has been transposed directly on to a totally different sector of society. It has produced unfortunate results, such as we have described above.

In the "free enterprise" system of full collective bargaining the dispute is between the employer and employee. The forest industry, for example, can raise the price of its products, subject to supply and demand, to meet increased labour costs. This cannot be done in education or other social services. Again we stress, in education, there is a third party involved, the students, who have no power or influence on the process.

A second basic issue for our members is that it is premature to develop or change a system for teacher bargaining before developing commonly accepted answers to three basic questions:

1. Who should bargain?
2. What should be bargained?, and
3. How should disputes be resolved within that process?

Finally, whatever system is in place, it must be allowed to operate free from external intervention. In the past the rules of the process have been changed frequently. This has been counterproductive.

We believe the present system was ill-conceived initially and needs to be modified and improved, through genuine consultation. However the new system, if there is to be one, must be allowed to work and be seen to work by all parties.

III. Who Should Bargain?

As we stated earlier, it appears the Minister has decided to introduce some form of "provincial model". This is a political decision which automatically has an impact on the administration of districts and schools. Before the Minister makes his final decision, may we suggest he address the following deceptively simple questions:

1. Who has actual control over the provision of financial compensation to teachers?
2. Who has control over the cost of providing the working conditions negotiated by teachers?

Given that the remuneration of teachers and other employees accounts for close to 80% of the budget of most school districts, we believe an examination of these questions should lead to a consideration of how education is financed in British Columbia. This in turn will focus attention on the overall governance of the education system. These matters should be debated and resolved before final decisions are made on provincial, regional or local bargaining.

A common shibboleth advises us that "He who pays the piper, calls the tune". At present the payer must negotiate with the piper before knowing how much is available to pay him and in fact appears to have much less negotiating power than the piper - and his friends throughout the province.

At the present time the government appears to have almost total control of school board financing. The Ministry establishes the formulae which generate funds. It sets the timing for announcing the amount of those funds and, in recent announcements, the Minister has indicated a desire to exert control on the allocation of specific funds within school district budgets.

Because of the timing of budget announcements school districts have been forced to negotiate with teachers, and other groups, without knowing their actual budget amounts. In addition to this, the rules of the process have been changed frequently before, during and after the negotiation process. The latest example is Bill 82.

This situation illustrates clearly that there is an incongruity between who has actual power and responsibility to pay the bill and who has negotiated the amount of the bill on behalf of the employer. Who knows what the bill should be? Our Association believes this fundamental dichotomy must be resolved before a position can be taken on whether to continue with the current process, to modify it or to start again with a totally different one, be it provincial, regional or local.

IV. What Should be Bargained?

The two major tasks performed by school administrators are: to provide educational leadership in their schools and communities and to administer those schools efficiently and effectively within the parameters of the School Act and Regulations and under the policies and direction of the school boards.

Since the question of "What should be bargained?" has never been properly addressed it is becoming increasingly difficult for us to perform these major roles.

We contend that the scope of the present bargaining process is too broad. To put it succinctly, it seems just about everything related to the educational process is "up for grabs". This is not conducive to the creation or maintenance of an effective education system, especially one which is undergoing radical change and therefore needs that magical combination of flexibility and stability to succeed.

We are particularly concerned with the erosion of the right to manage which results from this ever widening scope of bargaining. It is becoming almost impossible in some school districts for principals to exert the kind of creative, flexible leadership needed at the school level. Hard line union contracts simply do not lend themselves to the kind of service we should be providing to young people and their parents.

The employer-union bargaining process is designed to deal with compensation to be paid for a task set out by the employer. We believe the current process has gone far beyond issues of compensation such as salary and benefits and has resulted in direct interference in the right to manage within prescribed funding.

For example, matters such as class size, the length of the working day, including preparation time, and the calendar for the school year should not be matters for negotiation. These issues should be addressed more effectively through legislation based on past practice and consultation with all relevant parties. This consultation should include review and revision as circumstances change.

Likewise, matters which properly fall under the duties and responsibilities of the principal according to the School Act and Regulations should not be negotiated. These include items such as the supervision of instruction, curriculum, agenda and length of staff meetings, discipline of students and school records, among others.

These are administrative matters, most of which have been dealt with in a co-operative manner by all the professionals in a school and should not be restricted or eliminated by a union collective agreement. These include items such as flexible timetabling or class organizations, designed to better meet the changing needs of students. This effective co-operation is being negatively affected by the imposition of the industrial union model on the education system of British Columbia.

One further example, and perhaps the most insidious of all, is the so-called "professional autonomy" clause. This clause is being interpreted and used to hamper school administrators in the effective performance of their duties. It is a clear example of an apparent "no cost" item given away by employers, usually in the later stages of bargaining, to obtain a settlement. We suggest there is the potential for serious long-term costs associated with this clause.

This paper is by no means an exhaustive list of items in teacher contracts which cause concern to administrators. We believe those mentioned, and others, should not be part of the negotiation process. Indeed, we contend that some may be in contravention of the School Act and Regulations. It is imperative that the question, "What should be bargained?" be seriously examined as part of a review of the current bargaining process. At the very least, the Ministry should be prepared to enforce its own legislation.

V. How Should Disputes be Resolved?

It is difficult to provide a definitive answer to this question until the previous two have been addressed. The dispute resolution mechanism will depend to a great extent on the bargaining model and the items open for negotiation.

To be consistent with our earlier statements, we would strongly recommend a process which does not interrupt the education program of students. The process must be "at arms length" from government. It should not be inordinately expensive in terms of time and human resources. It should gradually establish an acceptable set of precedents to guide future practice. The ultimate objective would be to minimize confrontation, eliminate disruption and allow teachers, administrators and others to get on with the job of providing the best possible service to our students.

We would add that it is essential that the two parties to this process be on an equal footing. The dice should not be loaded in favour of one side or the other. Moreover, the rules, once established, ought not to change during the process unless by mutual agreement.

VI. Suggested Discussion Guide

In this section we respond to the Minister's Discussion Guide with some caution as it appears to have been designed based on a pre-conceived choice of some kind of provincial model. We have addressed most of the issues already but we will use the discussion guide to focus on some of the issues we may not have addressed previously.

1. Should the strike/lockout option of teacher-school board collective bargaining be replaced with binding arbitration?

Given our serious desire to avoid the interruption of the educational programs of our students, we would support a system of dispute resolution which does not include the strike/lock-out option. As we have indicated above the dispute resolution mechanism must be independent, efficient and fair to both parties. The process will depend on the negotiation model and the content of the negotiations.

2. Should government bargain teachers' collective agreements directly with teachers' unions or should boards bargain agreements through an accredited employers' association or through a government appointed body?

As indicated earlier, the participants in the negotiation process will depend on fundamental decisions taken about the governance and funding of education. If governance and funding are to be more centralized, government will play a more direct role. However, we strongly recommend that government does not negotiate directly with teachers. We suggest that negotiations should be conducted by an independent agency acting on behalf of all employers. There are examples in other jurisdictions which could provide models to be adapted to the education system.

3. Should restrictions be placed on the scope of teacher collective bargaining? If yes, what restrictions would you envision?

There should most definitely be restrictions on the scope of teacher bargaining. We believe we have addressed some of the more important items in part IV.

4. Should bargaining be conducted on a two tier approach where government bargains major cost items and boards bargain low cost local issues?

A two tier approach is not acceptable because it does not eliminate the potential for massive conflict and disruption to the system. Once clarification has been achieved on which issues are to be regulated, which are to be negotiated and which are to be left to local discretion, a two tier approach becomes redundant.

5. Should there be provisions in a collective agreement for regional differences?

Once it has been decided who will negotiate and what is to be negotiated, it seems entirely appropriate that there be some flexibility within the process to address regional disparity.

6. What would you suggest would be an appropriate method for boards to be represented in the bargaining process?

We cannot make a recommendation on this issue until the fundamental questions set out above are answered.

VII. Summary and Conclusion

The first two rounds of teacher negotiations have been costly for teachers, school districts and their respective organizations in time, money and human resources. They have been disruptive for students and their parents. The collective agreements which have been negotiated have begun to have a negative impact on the provision of educational services at the school and district level.

It seems reasonable, therefore, to review this process to see if it can be improved. Such a review must involve all the relevant parties and must be carried out through genuine consultation.

However, as we have stated clearly, concerns with the matter of teacher negotiations are inextricably linked to more fundamental issues of governance and financing of education in British Columbia. These issues must be resolved if we are to bring stability and flexibility to the system. Such resolution must include an effective, respectful and professional way for teachers to negotiate their compensation and benefits with the representatives of their employers.

Our Association is willing to be involved in such a process. We believe we have a particular perspective on the provision of service to students which should be heard. We would hope that this paper is only our first opportunity to be involved in a long-term consultative process. These issues are too complex, too sensitive and too important to be decided hurriedly. Simplistic solutions are never simple.

Finally, we hope the issues we have raised and our comments on them have contributed positively to your consideration of these important questions. Satisfactory resolution of these and other matters is vital to the continued health and vitality of our system.



Stanley French
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