

**IN THE MATTER OF AN
INDUSTRIAL INQUIRY COMMISSION
TO INQUIRE INTO LABOUR RELATIONS MATTERS**

BETWEEN:

BC PUBLIC SCHOOL EMPLOYERS' ASSOCIATION

(the "Employer")

AND:

BC TEACHERS' FEDERATION

(the "Union")

**Interim Report #2 for Transitional Negotiations
Submitted to
The Honourable Michael de Jong
Minister of Labour & Citizens' Services
Province of British Columbia**

Submitted by

Vincent L. Ready
Industrial Inquiry Commissioner

April 6, 2006

As Industrial Inquiry Commissioner, I have reviewed and researched a substantial volume of materials in discharging the mandate and the directions of the Terms of Reference. I have also reviewed the history of bargaining, the practice and structure of bargaining in other jurisdictions in Canada and the United States, and met with representatives of stakeholders.

At the core of collective bargaining is placing the decision-making and accountability as to the collective agreement achieved or not achieved and the ongoing relationship in the hands of the parties. Each party must have an incentive to take long-term relationships into account when bargaining. These key elements are absent in the current bargaining, and the labour relationship and failure to conclude collective agreements reflects this absence. Both sides must be committed to meaningful collective bargaining, or else the process will be fruitless regardless of what system is adopted.

While it is universally accepted by all parties concerned that there is a need to develop an improved bargaining structure, these changes will require a period of time to develop and implement. Any new bargaining structure will require time to draft legislative amendments to the *Public Sector Employers Act* and the *Public Education Labour Relations Act* and to enact funding and taxing statutes or prepare amendments to existing legislation. Possible changes to the Employer's infrastructure and bargaining agency to accommodate a new bargaining system and to the present structure of the BC Public School Employers' Association (depending on which model is eventually adopted) will be necessary. There is no realistic way these changes can be implemented prior to the upcoming negotiations between the BC Public School Employers' Association ("BCPSEA") and the BC Teachers' Federation ("BCTF") before the expiry of the present Collective Agreement. There should be continuing study and consultation on the system of collective bargaining between the parties. In the interim, I make the following recommendations.

The parties are, pursuant to Sections 46(1) and (4) of the *Labour Relations Code*, Part 4, able to serve notice or deemed to have served notice to commence collective bargaining four months and three months, respectively, prior to expiry of the Collective Agreement on June 30, 2006. Section 47 of the *Labour Relations Code* mandates that the parties "...must, within 10 days after the date of the notice, commence to bargain in good faith, and make every reasonable effort to conclude a collective agreement or a renewal or revision of it".

Given these circumstances, a more prudent course of action is for the parties to enter into meaningful negotiations with the assistance of a mediator with a view of concluding a Collective Agreement prior to June 30, 2006 in accordance with the guidelines set out below. In the near future, I will provide the Minister of Labour and Citizens' Services (the "Minister") with bargaining options intended to improve the present system and structure of collective bargaining.

This Commission is acutely aware that the current labour relations between the parties did not develop overnight and there is a long history of collective bargaining failures that will need both time and transition to fully address. Consistent with the approach of interim reports and recommendations for transitional bargaining, I recommend that the outcome of immediate negotiation and concurrent review of the interim reports and options be further studied by this Commission in conjunction with the parties upon conclusion of bargaining before finalization of the Report.

I recommend that the Learning Roundtable continue its discussions during the same period as the collective bargaining timeframe set out below.

I also strongly recommend that, at least during these negotiations, the Government appoint at least one senior representative to act on its behalf to convey the Government position on mandates and policy issues relative to labour relations. This participation would not be inconsistent with what has happened in other negotiations recently concluded in the public sector in British Columbia.

With these considerations, I recommend the following guidelines be adopted by the parties and the Government for the upcoming negotiations:

- The BCPSEA and the BCTF shall each appoint bargaining committees of a maximum of five representatives each. The Government shall appoint at least one senior representative to act on its behalf to convey Government's position on mandates and on policy issues relative to collective bargaining.
- Appoint Ms. Irene Holden as a facilitator/mediator to assist the parties with negotiations.

- The BCPSEA and the BCTF shall develop and exchange realistic bargaining proposals prior to April 15, 2006, and shall immediately commence collective bargaining.
- The BCPSEA, in conjunction with the Government representative referred to above, shall prepare a serious settlement offer no later than May 15, 2006.
- In the event that a settlement is not reached prior to June 1, 2006, the mediator will issue a report to the Minister and the parties identifying the issues resolved and in dispute.
- By agreement of the parties or at the request of the Minister, the Commission or another third party may be requested to become involved in providing further assistance in settling matters in dispute.
- Nothing in the foregoing procedure prohibits or precludes either party from exercising their right to strike or lockout under the provisions of the *Labour Relations Code*.
- The parties to the recently established Learning Roundtable will continue their discussions with a view of resolving the issues of class size, class composition and the other matters being dealt with within the same time frame as the collective bargaining process outlined above; however, this process should not interfere with bargaining.

All of which is respectfully submitted this 6th day of April, 2006.

Vincent L. Ready

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Industrial Inquiry Commission