

March 4, 2017

Update on the implementation of teacher's restored language

What has happened since the Supreme Court of Canada announced its decision? How did we get to the March 3, 2017 Agreement-in-Committee?

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 (LOU #17), that was negotiated and ratified within the 2013–19 collective agreement. More information on LOU #17 can be found later in this document. Meetings with the BC Public School Employers' Association and government representatives began in early December and continued throughout January and February. LOU #17 required the parties to reach agreement "regarding implementation and/or changes to the restored language."
2. It took some time and a lot of pressure from the Federation to get 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. The government and most districts were slow to collect and produce this important information, thus slowing down discussions.
3. 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 continued regarding full scope restoration of the 2002 language. The agreement in principle was subsequently approved by the BCTF Executive Committee and the employers' side. That MOA was in no way a final resolution. It provided \$50 million in new funding to create approximately 1,100 teacher full-time equivalents for the remainder of the current school year to provide some immediate relief to teachers while discussions on a final agreement continued. The funding allowed local parties to identify priority areas in enrolling-teacher positions and non-enrolling specialist positions.
4. On March 3, 2017, the **two sides reached a final Agreement-in-Committee (AIC)** that was subsequently endorsed unanimously by the BCTF Executive Committee on Saturday, March 4, 2017. The AIC achieves full implementation, if ratified, of **all** the substantive collective agreement language that was restored following our win at the Supreme Court of Canada. As per a decision made at the Federation's January Representative Assembly, the AIC is being put to the full membership for a ratification vote.
5. The AIC, if ratified, **will reinstate all local language, including superior provisions, on class size, class composition, non-enrolling staffing ratios, caseloads, and process and ancillary language.** The AIC only restores what was unconstitutionally stripped away in 2002. It does not add any new language that did not previously exist in the various local collective

agreements, other than a new process on remedies should the employer be unable to comply with the language. If ratified, the upcoming spring staffing process will be based on the restored language so classes are organized accordingly for the start of the 2017–18 school Year. This will mean several thousand new jobs for BC teachers and significant improvements to working conditions as well as services and programs for students. The AIC, if ratified, will also return real decision-making abilities back to school staff committees, school-based teams, staffing committees, and other similar structures in local language. If ratified, these committees will be back in place for the first day of school in September, returning real decision-making back to teachers on staffing and resources in schools.

6. The AIC, if ratified, will also create a provincial joint committee to examine and resolve any outstanding issues related to class composition.

Members will be asked to vote on the AIC March 8–10, 2017. The ballot question is:

Are you in favour of the LOU #17 Agreement-in-Committee reached on March 3, 2017?

Please contact your local association if you have any questions about voting timelines and procedures.

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 in favour of the BCTF. This LOU #17 contains the Teacher Education Fund. It remains in place until a final agreement on implementation is ratified.

Because a collective agreement is in place, there are no means by which either side can employ strategies like a lockout or strike. Therefore, discussions had to move forward without traditional pressure tactics.

Early on, the BCTF representatives at the table made it clear that proposals for substantial changes should wait until collective bargaining opens properly in the spring of 2019. No substantial changes were proposed and the parties could reach an AIC on March 3, 2017. Neither the MOA reached on January 4, 2017 or this current AIC impact future rounds of bargaining

What happens in the case of non-compliance by districts?

The AIC includes an important section on remedies for occasions when the collective agreement language on class size and composition cannot be met. A list of potential reasons is in the AIC. This remedy section is designed to act as a very strong incentive so school districts

make their best efforts to comply. The potential remedies, which are penalties for the school district, will put a lot of pressure on districts and administration to reach compliance and will only be triggered once best efforts have been made. The full details of the remedy section, as well as all the other implementation specifics, are available to read in the AIC on the *MyBCTF* portal's main page. In summary, there will be a formula that is applied to classes that violate class-size/and or class-composition language. That formula will generate a **monthly remedy** for a teacher whose class or classes are not in compliance with the collective agreement.

Once the value (number of minutes per month) of the remedy is calculated **the individual teacher, not administration, will determine the specific remedy that will apply.** The remedies available to the teacher to select will, if ratified, include additional preparation time, additional non-enrolling staffing support for the specific class or classes, additional enrolling staff to co-teach, or other remedies the local parties agree are appropriate. Unlike the Bill 33 process from several years ago, teachers will pick what works best for them and it will be enforced by the collective agreement. The grievance process can also be used to enforce the collective agreement 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. Because most of the language was negotiated between 1988 and 1993 between individual school districts and individual BCTF locals, there is some variation. Local language is not the same across the province and some locals do not have class-composition language. It is important to read your language to see which provisions apply to you.

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?

Back in December some locals provided an analysis to give a snapshot of likely increases.

Here are some examples:

In **Saanich**—to address restored class-size provisions the superintendent 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 estimated 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. Prior to the January MOA on interim priority measures, that school was 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 students mid-year.

As discussed earlier, this new AIC also includes a section on remedies for teachers when districts, after exhausting their best efforts to comply, still have classes that are not in compliance.

Can BC afford to fully implement the restored language?

Yes. Currently, the BC government just ended its last fiscal year with a surplus over \$2 billion. The government said in its latest budget that it would pay the costs of any final agreement from within its contingency fund, currently at \$400 million. The government can absolutely afford to invest that money in public education and our schools.

What can teachers do to help if the agreement is ratified?

The most important thing teachers can do to help right now and after a potential ratification 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?

With a provincial election coming up, we need to ensure all areas of our public education system are adequately funded.

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 challenges, 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.**

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

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."