

MEMORANDUM OF AGREEMENT

Between:

British Columbia Public School Employers' Association ("BCPSEA")

and

The British Columbia Ministry of Education ("Ministry of Education")

and

British Columbia Teachers' Federation ("BCTF")

(collectively referred to as "the Provincial Parties")

RE: LOU NO. 17: EDUCATION FUND AND IMPACT OF THE COURT CASES – FINAL AGREEMENT

WHEREAS the Provincial Parties acknowledge that, as a result of the majority of the Supreme Court of Canada¹ adopting Justice Donald's conclusion² that the *Education Improvement Act*³ was unconstitutional and a

AND WHEREAS the Provincial Parties further acknowledge that the Supreme Court of Canada's decision triggered Letter of Understanding No. 17 to the 2013-2019 BCPSEA-BCTF Provincial Collective Agreement, which required the Parties to re-open collective agreement negotiations regarding the collective agreement provisions that were restored by the Supreme Court of Canada;

AND WHEREAS the Provincial Parties further acknowledge that Letter of Understanding No. 17

ERRORS AND OMISSIONS EXCEPTED

opportunity for meaningful participation and the promotion of interaction with others. The implementation of this Memorandum of Agreement shall not result in any student being denied access to a school, educational program, course, or inclusive learning environment unless this decision is based on an assessment of the student's individual needs and abilities.

2.

ERRORS AND OMISSIONS EXCEPTED

designations and does not supersede or otherwise affect the work of the Class Composition Joint Committee set out in paragraph 20 below.

C. Dispute Resolution

Where a dispute arises regarding the interpretation or application of this Memorandum of Agreement, the following process will apply:

- i) The local parties will meet and attempt to resolve the dispute;
- ii)

ERRORS AND OMISSIONS EXCEPTED

caseload limits or ratios from the local collective agreement shall apply. **[Provisions to be identified in Schedule “A” to this Memorandum of Agreement].**

- D. The aforementioned employee staffing ratios shall be based on the funded FTE student enrolment numbers as reported by the Ministry of Education.
- E. Where a non-enrolling teacher position remains unfilled following the completion of the applicable local post and fill processes, the local parties will meet to discuss alternatives for utilizing the FTE in another way. Following these discussions the Superintendent will make a final decision regarding how the FTE will be deployed. This provision is time limited and will remain in effect until the renewal of the BCPSEA-BCTF provincial collective agreement. Following the expiration of this provision, neither the language of this provision nor the practice that it establishes regarding alternatives for utilizing unfilled non-enrolling teacher positions will be referred to in any future arbitration or proceeding.

Dispute Resolution

- 8. Where a dispute arises regarding the interpretation or application of the non-enrolling language, the following process will apply:
 - A. The local parties will meet and attempt to resolve the dispute;
 - B. Where, after meeting, the local parties are unable to resolve the dispute, the local parties, with the assistance and representation of the Provincial Parties, will meet again and attempt to resolve the dispute;
 - C. Where, after meeting, both the local and Provincial Parties are unable to resolve the dispute, either party may file a grievance and utilize the grievance procedure to resolve the dispute.

III. PROCESS AND ANCILLARY LANGUAGE

- 9. The BCPSEA-BCTF collective agreement process and ancillary provisions that were deleted by the *Public Education Flexibility and Choice Act* in 2002 and again in 2012 by ~~the~~ *Education Improvement Act* shall be implemented effective September 1, 2017 or as otherwise set out in paragraph 10 below. **[Provisions to be identified in Schedule “A” to this Memorandum of Agreement]**
- 10. The Provincial Parties recognize that it may take time to transition from existing practices to the processes that are defined in the restored language. The 2017/2018 school year will serve as a transition period for full implementation fh(-)47(w)1514(-)286(P)4(r75to)10(r)-3rTJETBT1 0 0 1 278.45 23

ERRORS AND OMISSIONS EXCEPTED

- B. If, after meeting, the Committee is unable to agree upon a consistent approach to class composition, the Committee will meet and attempt to agree upon the definitions of special education designations and classifications in the current context of educational service delivery;
- C. If the Committee is unable to agree on the definitions of special education designations by June 30, 2018, the matter will be referred to Arbitrator John Hall for a final and binding determination of the definitions and classifications of special education designations in the current context of educational service delivery. Arbitration dates will be pre-booked during the fall of 2018 and best efforts will be made to conclude the arbitration hearing by November 30, 2018. The Provincial Parties will request that Arbitrator Hall's decision be issued as soon as possible and, in any event, no later than January 31, 2019. This decision will be used to determine class organization for the 2019/2020 school year and thereafter until the Provincial Parties negotiate an alternative approach to class composition.
- D. Unless the Provincial Parties agree otherwise, during the 2017/2018 and 2018/2019 school

ERRORS AND OMISSIONS EXCEPTED

- B. Re-examining the utilization of existing space within a school or across schools that are proximate to one another;
- C. Utilizing temporary classrooms;
- D. Reorganizing the existing classes within the school to meet any class composition language, where doing so will not result in a reduction in a maximum class size by more than:

five students in grades K-3;

four students for secondary shop or lab classes where the local class size limits are below 30, and;

six students in all other grades.

These class size reductions shall not preclude a Superintendent from approving a smaller class.

Note: For the following School Districts, class sizes for K-1 split classes will not be reduced below 14 students:

School District 10 (Arrow Lakes)

School District 35 (Langley)

School District 49 (Central Coast)

School District 67 (Okanagan-Skaha)

School District 74 (Gold Trail)

School District 82 (Coast Mountain)

School District 85 (Vancouver Island North)

- E. Renegotiating the terms of existing lease or rental contracts that restrict the School District's ability to fully comply with the restored collective agreement provisions regarding class size and composition;
- F. Completing the post-and-fill process for all vacant positions.

Non-Compliance

23. Notwithstanding paragraph 22, the Provincial Parties recognize that non-compliance with class size and composition language may occur. Possible reasons for non-compliance include, but are not limited to:

compelling family issues;

sibling attendance at the same school;

the age of the affected student(s);

distance to be travelled and/or available transportation;

safety of the student(s);

the needs and abilities of individual student(s);

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accessibility to special programs and services;
anticipated student attrition;
time of year;
physical space limitations;
teacher recruitment challenges.

Remedies for Non-Compliance

24. Where a School District has, as per paragraph 22 above, made best efforts to achieve full compliance with the restored collective agreement provisions regarding class size and composition, but has not been able to do so:

- A. For classes that start in September, the District will not be required to make further changes to the composition of classes or the organization of the school after September 30 of the applicable school year. It is recognized that existing “flex factor” language that is set out in the restored collective agreement provisions will continue to apply for the duration of the class.

For classes that start after September, the District will not be required to make further changes to the composition of classes or the organization of schools after 21 calendar days from the start of the class. It is recognized that existing “flex factor” language that is set out in the restored collective agreement provisions will continue to apply for the duration of the class.

- B. Teachers of classes that do not comply with the restored class size and composition provisions will become eligible to receive a monthly remedy for non-compliance effective October 1, 2017 (or 22 calendar days from the start of the class) as follows:

$$(V) = (180 \text{ minutes}) \times (P) \times (S1 + S2)$$

V = the value of the additional compensation;

P = the percentage of a full-time instructional month that the teacher teaches the class;

S1 = the highest number of students enrolled in the class during the month for which the calculation is made minus the maximum class size for that class;

S2 = the number of students by which the class exceeds the class composition limits of the collective agreement during the month for which the calculation is made;

Note: If there is non-compliance for any portion of a calendar month the remedy will be provided for the entire month. It is recognized that adjustments to remedies may be triggered at any point during the school year if there is a change in S1 or S2.

- C. Once the value of the remedy has been calculated, the teacher will determine which of the following remedies will be awarded:
- i) Additional preparation time for the affected teacher;

