

## **LRB decision B214/2011 dismissing BCPSEA's application to Vary the Essential Services Order**

Below is a brief analysis.

### **Report Cards:**

Noting that the provision that teachers need not prepare or distribute report cards has been a feature of the 2001 and 2005 essential services orders and was agreed to by the parties in July 2011, the Board found that there was no basis to vary the Order. Further, the Board specifically found that BCTF members are providing a range of feedback to students and parents.

Responding to BCPSEA's argument that report cards provide more readily available and complete information to parents, the Associate Chair notes that the parties (including BCPSEA) "presumably turned their minds to that issue when the Order was being discussed and agreed that providing complete information through report cards, although no doubt helpful and even important, was not essential (except in the case of Grade 12 marks)." The Board concluded that BCPSEA had not met the threshold for a variation as it had failed to prove that there was a change in circumstances or that the Order had had an unanticipated effect.

### **15% "reimbursement"**

With respect to BCPSEA application for a 15% reimbursement, BCPSEA had argued that this was necessary because there was not sufficient economic pressure on teachers, that there was no real progress in bargaining and that the dispute could drag on "unless balance is restored to the bargaining dynamic."

The Board rejected that argument pointing out that it is not the role of the Board to attempt to balance the respective bargaining power of the parties.

The Board's decision also confirms that BCTF members are now teaching more in place of the non-essential duties. At paragraph 60 of the decision the Board writes:

"...there is no dispute teachers are continuing to work their regular or normal hours during Phase 1 of the BCTF job action. They are not performing certain non-essential duties, but there is no assertion teachers are working only 85% of their scheduled time while receiving 100% of pay. Rather, the assertion is they are working their regular hours teaching but not performing non-essential duties, as permitted by the Order."

The Board also notes that the essential services regime in education is different from the essential services order in other sectors, but that this is the regime that the parties have chosen and the Board has endorsed.