

SURREY TEACHERS' ASSOCIATION

Heads Up

For Members

THE DORSEY AWARD ON CLASS SIZE AND COMPOSITION

On August 21, 2009 Arbitrator, Jim Dorsey, issued a 354 page decision on alleged class size and composition violations across the province for the 2006-07 and 2007-08 school year. The award examined whether or not school boards had failed to follow the class size and composition limits and processes established in legislation (Bill 33) in 2006.

- case involved more than 1500 classes from 17 districts around the province
- of the 1500+ classes, 81 were used as specific examples
- the hearing lasted 54 days
- 34 teachers, 1 local president, 9 principals or vice principals, 1 HR director, 3 assistant or associate superintendents, and 2 directors of instruction testified at the hearing
- the arbitrator found that 21 of the 81 sample classes were in violation of the legislation
- in 19 cases, the consultation process was found to be flawed
- in 2 cases, the classes were found not to be appropriate for student learning

Finding:

The award is very detailed and thorough. Below are key points and their paragraph number for reference. Members who are interested in more detail can view an extended summary at www.surreyteachers.org/documents/Resolutions/DorseyDecisionSUMmary-ForMembers.pdf, or the entire decision at www.surreyteachers.org/documents/Resolutions/ClassSizeAndComposition2006-08Award.pdf

Dorsey rejected the employer's position that if a student had an IEP for a learning disability in language arts that it does not count as an IEP for French or math. (para. 109-111)

Dorsey agreed with the BCTF that all teachers of a class, including prep teachers must be consulted about the class size and composition. (para. 305)

If a teacher has sincere concerns about the ability to meet the PLOs, these must be discussed and considered. (para. 362)

The principal has the obligation to gather required and relevant information, including class lists and IEPs (para. 369)

Consultations must be thorough and carefully organized. (para. 371)

"Appropriate for student learning" is not defined, but the arbitrator gives guidance to the meaning as to what will not be appropriate, one which "will likely adversely affect the normal learning expectations for a class." (para. 373)

A lesser teaching load in one class does not justify exceeding limits in another class (para. 545)

The principal must inform the teacher that the consultation process is complete and of the outcome (para. 379)

Exceeding class size standards is not to be a norm, but a permissible exception (para. 435)

A principal's opinion must be more fact-based than merely an enumeration of students special needs designations (para. 450)

Principals, superintendents, board of education, and parents need to know if teachers do not believe their classes are appropriate for student learning (para. 480)

What does the decision mean for Surrey?

Key 1: Principals must provide information and take an active role when consulting

Principals must provide teachers with relevant information about the students in the class. This includes but is not limited to class lists and IEPs. When consulting they must meaningfully participate in discussion, provide fact-based information, and consider teachers' opinions and requests. Principals will consult all teachers of the class, not just the classroom teacher. They must also ensure that new staff members are made aware of all relevant supports, services and processes specific to the school and how to access them.

Key 2: Teachers should request consultation meetings and make their objections known

Teachers should request consultation meetings to make a decision about whether or not a class is educationally sound. In Surrey, teachers may continue to have their staff reps attend the consultation meetings. Teachers must discuss their sincere concerns about their ability to meet the PLOs with the principal. If a teacher believes the class is not appropriate for student learning, he/she "is expected to articulate some basis for forming the opinion." The objection and reason should be communicated to the principal by the end of the consultation process although it is not necessary to do so at the consultation meeting. Teachers should also request additional supports and resources and note the response to those requests.

Key 3: The reasonableness of the principal's decision is at issue

At the end of the consultation process the principal must tell the teacher the result, including whether or not they will remove students and/or provide additional supports or resources. If the teacher has expressed his/her disagreement with the size and/or composition of the class, he/she can grieve the reasonableness of the principal's opinion that the class is appropriate for student learning.

Remedy

A meeting will be held between the parties to attempt to agree on remedies for those classes found to be in violation of the legislation. Failing agreement on remedies, the matter will go back to Arbitrator Dorsey. When an agreement is reached, the other classes cited in the original grievance will then be examined to determine if a remedy will apply to them. This process could take several months or longer.

2008-09

Grievances submitted for violations during the 2008-09 school year are scheduled to go to arbitration this fall.

This Year

Information about this year's consultation meetings will be sent to your staff reps. Please attend a union meeting at your school or speak to your staff reps before attending a consultation meeting.

TRAINING FOR STAFF REPS

Training and an overview of the implications of the Dorsey Award will be provided for one staff rep per school in preparation for this year's consultation meetings.

Thursday, September 17, 2009

12:00 — 3:00 pm

District Conference Centre

Leave of Absence:

Leave type: Association Business, Article 40.78

Cost of TOC: to be borne by STA (Attention: Denise Moffatt)

To register please contact Lorna Sheh at the STA office or via FirstClass.