

## **UPDATE – Class Size and Composition Grievance 2006-2008 Remedy Award**

- *70 days of release time to 20 teachers*
- *Lack of funding not an excuse*

In August of 2009, Arbitrator Jim Dorsey found that 21 of the 81 exemplar classes brought forward by the parties were in violation of *the School Act*. In total more than 1500 classes were grieved. This month Dorsey ruled on the remedy flowing from those violations. He awarded substantial remedies to teachers in form of compensatory days. Compensation was awarded for both classes where he ruled the principal's opinion of the educational soundness of the class was not reasonably held and where the consultation process itself was lacking or inadequate.

Of note, Dorsey did not agree that inability to fund appropriately organized classes was a factor in determining appropriateness for student learning or the scope of remedy for teachers. *“It is not to be left to arbitrators to diminish remedies for individual teachers or increase deference to the opinions of principals and superintendents because underfunding places boards of education in positions where they must stretch their opinions of what is appropriate for student learning to meet class size and composition standards with inadequate funding.”* (para. 159)

Dorsey did give some warnings with regard to future enforcement of the standards. Of note, where teachers and staff reps did not complain about the lack of consultation, agreed to inadequate consultation or agreed to teach classes exceeding the standards the remedy was reduced. Teachers who agreed to help organize or load classes which exceed the standards also place themselves in jeopardy of diminishing or negating any remedy.

It is important that teachers continue to clearly articulate their disagreement with their classes and that the union must promptly file grievances on violations in order to ensure timely resolution and remedy.

The remaining grievances from the 2006-2008 school year will now be reviewed by the parties to determine the applicability of the remedy award on these classes.