



WORKING *together for* STUDENTS

JANUARY 2013

A FRAMEWORK FOR LONG TERM STABILITY IN EDUCATION
TOWARD A 10-YEAR AGREEMENT WITH PUBLIC SCHOOL TEACHERS



BRITISH
COLUMBIA

Ministry of
Education

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MESSAGE *from the* PREMIER

When I announced our government's vision to achieve a 10-year labour agreement with the British Columbia Teachers Federation (BCTF), I was clear about our motivation for such an ambitious goal. We are not seeking a solution that better meets the needs of government or teachers. We are seeking one that serves the interests of British Columbia students and their families above all else.

That should go without saying. Yet the legacy of discord between government and the BCTF over the past several decades shows just how often we have lost sight of that simple ideal. Both parties over the years have wrapped themselves in the banner of "putting students first". However, at the negotiating table, the interests of students have too often been pushed aside. It is time we changed that. It is time we all do better.

The BCTF and governments of various political leanings have all taken actions and positions that, however well-intentioned, in hindsight did not lead us in the right direction. It is easy to dwell on that history and nurture the lingering grudges. There is value in learning from the past, but we cannot make the mistake of continuing to live in the past. The approach outlined in this paper aspires to move us all beyond what has been and instead shift our focus to what can be.

We owe this shift to our children, so their learning is not repeatedly compromised by our inability to reach agreement. We owe this shift to teachers, so their reputations as respected professionals are not tainted by a public discourse focused too much on needless conflict. We owe this shift to parents, so their trust in public education is not further shaken by our shortcomings.

We need to stop recurring labour disputes from distracting us from important public discussions about the future of our education system. The system we – educators and government alike – envision for the future is built around concepts like collaboration and openness to new ideas. It is time we all embrace those same ideals ourselves.

Honourable Christy Clark
PREMIER





MESSAGE *from the* MINISTER OF EDUCATION

As a teacher and now as Minister of Education, I have the rare opportunity to view the challenge of teacher bargaining from both sides. That perspective could be discouraging, but instead it allows me to appreciate all the more how both parties are ultimately motivated by a shared passion for students.

Yes, there are and likely always will be many differences in our respective views on how best to support students. But imagine how students would benefit if we could put the energy consumed by labour issues into the essential discussion of how best to shape and guide learning in our schools.

I know that is what teachers would like to focus on. Every day, there are remarkable educators introducing all sorts of creative and innovative approaches to help their students learn. Every day, I see the same passion and ideas embraced and advanced by the hardworking staff within the Ministry of Education. It is unfortunate that the perpetual divide on labour issues too often keeps these talented individuals from coming together to collaborate.

Teachers deserve and have the respect of British Columbians and their government. There is no reason we can't find a labour agreement that reflects that respect while also reflecting government's responsibilities to students, families and taxpayers.

Of course, as teachers across B.C. would surely agree, long-term labour stability in education will not just benefit students; it will also benefit educators, administrators, parents and government. It is in everybody's best interest, but it will require us all to set aside our preconceptions and entrenched positions in favour of a shared commitment to what is ideal for students.

I know that is hard. I know the past provides more reason for suspicion than for trust. But, as a teacher and a parent, even more than as Minister of Education, I hope we are all willing to make the effort. I believe the approach this framework sets out has the potential to make that effort worthwhile. I want to thank our education partners for their thoughtful contributions to the review that brought us to this point.

The truth is any process will only be as successful as the participating parties are prepared to allow. While agreements can be legislated, good working relationships cannot. Nor can trust or cooperation. They must be offered, earned and maintained. This paper should be seen as our willingness to offer, earn and maintain renewed trust and cooperation between government and public school teachers. I hope that offer will be returned in kind.

Honourable Don McRae
MINISTER OF EDUCATION



Part I:

TOWARD A 10-YEAR AGREEMENT

In October 2012, Premier Christy Clark announced government would consult with the education partners for the purpose of reviewing teacher bargaining structures and processes with the goal of providing a more stable learning environment for British Columbia students.

That vision is driven by the following fundamental considerations:

1. There is a need to transform B.C.'s public education system over the next decade, as recognized by our partners in the education system;
2. To achieve that transformation, we need the full participation of teachers and the full engagement of the public, both of which are undermined by recurring labour disputes;
3. A 10-year agreement would provide the stability required and allow all partners in education, particularly parents and teachers, to focus on the priority of ensuring B.C.'s education system meets the needs of students into the future; and,
4. Achieving a 10-year agreement requires a new approach from the established model of bargaining, which history has repeatedly demonstrated has little chance of success in the context of the relationship between government and the BCTF.

With these considerations in mind, the review looked for opportunities to achieve two priorities:

1. Create long-term stability for students and families, as well as the education system as a whole, and
2. Improve how government interacts and works with the BCTF to help reduce the stress and disruption during and outside of contract negotiations.

Government's view was informed by submissions from key education partners — most importantly, the BCTF — but also from previous reviews of teacher bargaining in B.C. and research into other potential bargaining models. The result is a proposed new framework for teacher bargaining and a more effective way of working together. The actions required to implement this framework will be complex and challenging. This paper does not aspire to set out those specific actions in detail, but rather to provide public transparency on government's objective and approach as the work of improving teacher bargaining continues.

A GROWING NEED *for* ACTION

Why the need for a 10-year agreement now? In part, it is because British Columbians are tired and frustrated by the ongoing cycle of teacher labour unrest in schools. In part, it is because a pending new round of negotiations in 2013 presents another opportunity for improvement. But the most significant reason is that there is an emerging need to change the education experience for B.C. students and it deserves the full attention of all British Columbians.

Education partners in B.C. increasingly recognize the need to modernize how we deliver education.

Our education system today performs well by global standards. The problem is, as jurisdictions around the world are realizing, it was designed based on the knowledge, needs, attitudes and priorities of a different era. And so, while we perform well compared to other jurisdictions using a similar model, the potentially more valuable question is how well does B.C.'s education system perform compared to what we might achieve with a different approach to learning? How much better could we meet the needs of today's students if we focused on that goal rather than on maintaining what we have?

We now know through current brain science and research that the traditional approach to education isn't as conducive to effective learning as it could be. Rather, the research shows learning is most effective when it is less focused on the sharing of content and more focused on helping students learn how to learn through collaboration, flexibility and personalization. This also reflects the kind of learning experience our students are craving as they grow up in a world increasingly shaped by collaborative technology and relationships.

Motivated by their commitment to their students, this is also the kind of learning more and more B.C. teachers and schools are pursuing through their own initiative. The priority is how to ensure their insight, experience and success is applied for the benefit of every student.

Achieving that goal should be the most important public discussion of public education in a century. Instead, the public discourse tends to be dominated by divisive labour bargaining debates.



A CHALLENGING LEGACY

The troubled history of labour negotiations between the Province and the BCTF has been well documented. In his 2011 history of this relationship, *Worlds Apart*, University of Victoria emeritus professor in education history and policy Thomas Fleming described it as “a conflict that has been, without question, the single most defining characteristic of public education in the Province for the past four decades.”

From a public policy and labour relations perspective, numerous efforts have been made to improve the relationship, most recently through the reviews by Don Wright in 2004 and by Vince Ready in 2007. Wright, a former Deputy Minister of Education, considered opportunities for improving the bargaining process and structure. Ready, a highly regarded mediator and arbitrator, proposed a series of steps and recommendations to foster more effective negotiations. At the time, the BCTF rejected the recommendations contained in both of these reports and government only implemented a handful of those recommendations.

Ready highlighted the importance of third-party support for the negotiating parties, defined timelines for negotiating, and a need for a common understanding of the relevant data. Wright similarly recognized the importance of a clear voice for teachers and recommended a well-defined process with prescribed steps.

Wright also set out three principles in his report that he felt were essential to an improved relationship:

1. A clear voice for teachers in negotiating the terms and conditions of employment;
2. The transparency needed to support public accountability; and
3. An opportunity for a true dialogue about improving public education.

Both of these reviews followed more than 15 years of largely unsuccessful bargaining. There have been at least eight

legislative interventions since 1991 under several different provincial administrations, as well as countless proceedings before both the Labour Relations Board and the courts. The most recent round of bargaining ended with a settlement, but not before almost a full school year of strike action, 78 bargaining sessions with no appreciable progress made, a legislatively imposed “cooling off” period, 16 mediated sessions and the promise of legislation if the matter was not resolved

Government has concluded through this most recent consultation – and in further considering both the Wright and Ready reviews – that the existing bargaining and dispute resolution mechanisms require modification to more effectively address labour relations issues with teachers. The reality of the current bargaining dynamics is such that extraordinary amounts of time are dedicated to the process, but relatively modest progress is made. In fact, trust between the parties is further eroded and time and energy is taken away from the important focus on education.

It is a testament to the professionalism and expertise of individual teachers, administrators, trustees, parents and public servants that B.C. continues to deliver some of the world’s best student achievement rates despite the labour challenges surrounding them. The delivery of education is complex work dependent on many partners, particularly teachers. Their overall success in spite of the labour challenges gives hope for what can be achieved. And yet it leaves questions about how much more successful the entire system could be if it was not repeatedly disrupted by labour unrest.



A BARRIER *to* PROGRESS

This vital discussion about the future of education is really about how best to support student learning in a public education system, how this changes the experience in schools and classrooms, what changes it requires for areas like curriculum and assessment, and how to empower professional teachers to succeed in this new learning environment.

The ideas and experience of teachers are undeniably essential in that conversation. Indeed, many teachers are truly leading the transformation of learning in classrooms across B.C.

The necessary systemic change, however, requires both the dedication of individual teachers but also a more fundamental system approach and cultural change.

Recognizing their vital role, during the most recent round of bargaining, government extended many invitations to the BCTF to engage directly with government on many aspects of education transformation. Regrettably, those invitations were declined because of job action on the part of teachers. While government respected that decision, it meant we lost out on important opportunities for the BCTF and many of its members to help shape education policy. These missed opportunities only added to the distrust between government and teachers.

This dynamic highlights how damaging continued labour unrest can be for teachers and the education system as a whole. It also suggests how a long-term labour agreement could contribute to improving the educational experience for B.C. students and teachers alike as the transformation of education unfolds over the next decade.

Part II:



THE CURRENT CONTEXT

A SYSTEM *of* PARTNERS

Government and the BCTF are not the only parties with a role in B.C.'s education system. At its core, education is a learning partnership between the student, the family and teachers - one that is supported by a network of partners, including independent schools, professional education organizations, community literacy organizations, public libraries, First Nations representatives, provincial ministries and agencies and the private sector. Each of these partners has a specific role to play while working collaboratively to support learning and provide a high quality education system.

In reaching the conclusions set out in this paper, the Ministry of Education invited submissions from the partners most directly impacted by the labour relationship with public school teachers:

- BC Teachers' Federation
- BC Public School Employers' Association
- BC Principals' and Vice Principals' Association
- BC School Trustees' Association
- BC School Superintendents' Association
- BC Confederation of Parent Advisory Councils

The recommendations from each of these partners are set out in [Appendix B](#). The ideas put forward ranged widely, reflecting the unique perspective each holds within the system. But in general there were several essential themes that recurred throughout the consultation and that have informed the proposed framework, including:

- A more formal and better-supported way for key education partners to engage with government on public education policy;
- A need to facilitate the bargaining process and help move it beyond the kinds of impasse that the government and the education partners have experienced in previous rounds of teacher bargaining;
- A need for more transparency in the bargaining process to improve public confidence by allowing citizens more insight into the respective parties' positions and claims during negotiations;
- A desire for a more structured timeline to define the teacher bargaining process, providing some level of certainty for all partners; and
- A desire to ensure that the work teachers do is recognized and supported through fair compensation, reflecting the public's respect for teachers as skilled professionals.

Given the diverse views and priorities, it should not be surprising that the proposed framework does not fully and specifically address any one partner's priorities. However, we believe these key themes are effectively addressed and are optimistic that all partners will see clear links between their recommendations and the proposed way forward.

The proposed framework also generally reflects a number of broad issues raised at various times by the BCTF by:

- Continuing the right to strike;
- Respecting the voice of teachers by providing a formal opportunity to shape education policy;
- Providing teachers with a voice in funding strategic education priorities; and
- Allowing for direct negotiation with government on provincial matters.

At the same time, this approach also reflects the priorities identified by local trustees through the BC Schools Trustees' Association, including:

- Revisiting the essential services designation;
- The need for a process with clear timelines, as recommended by the Wright and Ready reports; and
- A clear voice for trustees in education policy matters.

It is also important to note that the challenges in the current system are not strictly limited to the dynamics between government and the BCTF alone. In any system involving so many partners and relationships, the challenges and the solutions will inevitably involve many parties. Most notably, school districts themselves as the employers of teachers have a role in the bargaining process – whether on local matters or through the BC Public School Employers' Association on provincial matters. From the public's perspective however, government is responsible for setting the overall policy direction, providing funding, and is held accountable for the outcomes. This reality was noted by both Ready and Wright in their respective work and the proposed framework better aligns accountability with responsibility.

The task of how best to approach bargaining in the context of these dynamics has been grappled with many times in the past. While it is within government's responsibility to design the proposed framework, we also know its application will inevitably require thorough consideration of the role of districts and other partners. Any lack of discussion on those issues here reflects our recognition these factors must be fully addressed in the details of implementation.

A LIMITED SET *of* OPTIONS

Prior to developing the proposed framework, government looked at other models for bargaining and considered how they might work in the context of teacher collective bargaining. Ultimately, there are three core approaches that can be adapted to most bargaining relationships:

1. Collective bargaining (current model)

Under this approach, employers and employee representatives negotiate terms and conditions of employment. If the parties are unable reach agreement, they can ask the Labour Relations Board to appoint a mediator to provide assistance. Employees have the ability to withdraw their services through a strike and employers have the ability to lock employees out. This approach allows the greatest flexibility and freedom to negotiate, but also the greatest uncertainty and potential for disruption in schools by allowing for the full right to strike or lockout (with resulting need for government to intervene) and no set timelines for or even guarantee of resolution.

2. Binding third-party arbitration

At the other end of the spectrum from collective bargaining, parties can agree to be bound by third party arbitration. The parties bargain and, if they are unable to reach agreement, they submit their positions to an arbitrator who has the authority to bind the parties with his or her determinations. While this approach ensures that schools will never be affected by another teacher strike, it poses the risk of binding settlements contrary to educational policy goals, to financial constraints on boards of education, to teacher concerns about working conditions, or other issues of critical importance to the educational system.

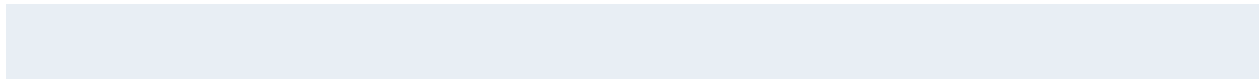
3. Structured collective bargaining with third-party support and fixed timelines

This approach offers much of the flexibility of collective bargaining, but with support from an appointed or mutually agreeable mediator or conciliator if the parties reach an impasse. As a middle-ground between collective bargaining and binding arbitration, it contains the advantages of both those options. It provides the ability to bargain issues of importance to both parties with the assistance of an outside party and clear impasse resolution timelines and procedures.

The government's proposed approach considered not only these options, but how the chances of a successful outcome could be improved by addressing some of the challenges that would likely impede progress under any model.

The proposed framework also balances the rights and interests of teachers as employees with the broader public interest and reflects many of the considerations explored in the Ready and Wright reviews.

It should be evident that the approach set out below is both consistent with the valuable work of these earlier reviews, but also aspires to be palatable to teachers.





Part III:

A BOLD, RESPECTFUL & RESPONSIBLE SOLUTION

Clearly a more stable labour environment based on a negotiated agreement is in the best interests of all education partners, particularly teachers and the students to whom they are so dedicated. In the current context of emerging change in education, there is also great value in reaching an agreement that allows the public discourse on education to focus on the future of learning above all else over the coming decade.

With these motivating factors in mind – and taking into account the views expressed by the education partners consulted – the government offers the following solution.

With the goal of securing a 10-year agreement with the BCTF, government proposes a new teacher collective bargaining framework based on four key elements:

- A dedicated Priority Education Investment Fund (PEIF) to address education priorities;
- A new Education Policy Council (EPC) of representatives from government, the BCTF and boards of education trustees to advise government on public education policy priorities, including allocation of the PEIF;
- Indexing of teachers' compensation to an average of other major public sector increases; and
- A new structured and transparent bargaining process.

Taken together, these elements represent a bold step in government's commitment to a long-term settlement. The first 3 elements – dedicated funding, the Education Policy Council, and compensation indexing – are contingent on achieving a 10-year labour agreement. The fourth element, a structured and transparent bargaining process, is recognition that issues in the current process need to be resolved to help achieve that agreement. Irrespective of whether the parties are successful in negotiating a 10-year agreement, government will work with stakeholders to implement the changes necessary to improve the bargaining process and structures as outlined in this framework.

This approach means that if the BCTF is prepared to reach a 10-year agreement, for the next decade government is prepared to offer B.C. teachers:

- A voice in allocating dedicated new funding to education priorities;
- A formal role in education policy decisions; and
- Compensation certainty and fairness, with increases on par with many of their colleagues in the public sector over the next 10 years.

Beyond that, a decade of labour peace would also ensure teachers, their students and the entire education system are freed from the distractions and disruptions of prolonged disputes so they can instead focus on the work they care about most: supporting students in the classroom.

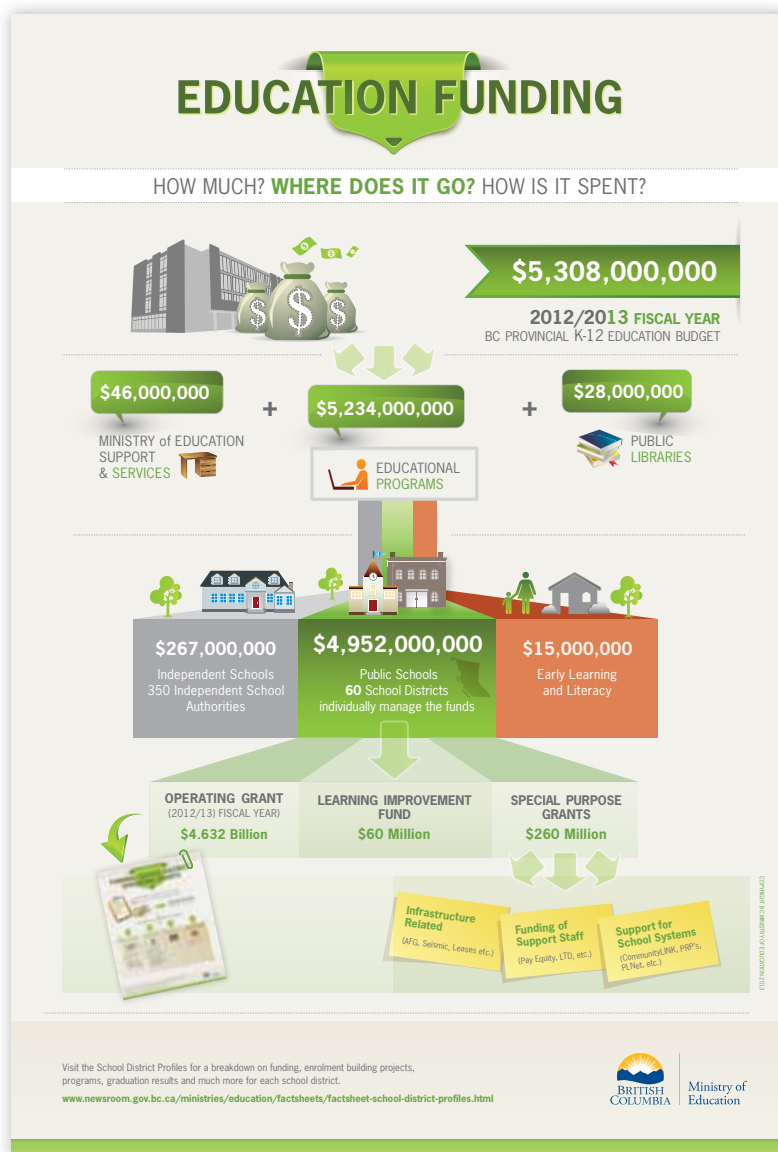
ELEMENT I: DEDICATED FUNDING *for* EDUCATION PRIORITIES

For the 2012/13 fiscal year, the total provincial K-12 budget for B.C. was \$5.315 billion, \$4.95 billion of which is allocated to public schools and managed by B.C.'s 60 school districts.

In 2012, government introduced the Learning Improvement Fund. This fund provides \$195 million over the next three years and \$75 million per year after to be allocated by districts to:

- Hire additional teachers and education assistants;
- Provide additional teaching time; or
- Support professional development and training to help teachers meet complex needs in their classrooms.

Under the new teacher collective bargaining framework, government would now also create a new Priority Education Investment Fund. This fund will be a three-year education spending envelope identified each year by government consistent with its fiscal plan. The basis for determining this funding amount is yet to be determined, but it could be tied in some manner to factors such as the Province's economic performance and education enrollment.



This would be new funding, in addition to the existing K-12 budget and the Learning Improvement Fund, dedicated to education system priority investments. Government would continue to set the balance of education funding through traditional provincial budgetary processes.

(ELEMENT 1: CONTINUED)

With a 10-year agreement, the PEIF will provide:

- A funding allocation each year dedicated to specific education priorities, such as class size and composition and other investment needs;
- Direct input from the BCTF and school trustees regarding how the funding would be used, through a new Education Policy Council (see below); and
- An avenue to address funding-related concerns frequently raised at the bargaining table, but that are not necessarily directly linked to teacher working conditions or terms of employment.

ELEMENT 2: EDUCATION POLICY COUNCIL

Teachers, as individual professionals and through the BCTF, have a legitimate, valuable and essential voice in helping to shape educational policy. However, arguably one of the most significant barriers in the current bargaining model is the tendency for educational funding and policy matters to become major topics of negotiations, which distracts the parties from serious bargaining of working conditions and terms of employment. This results in education policy discussions – or other broader social policy matters – interfering with productive bargaining.

The interests of citizens, government, teachers, administrators and students will be better served if bargaining is more clearly focused on addressing terms of employment, and not on education policy. Clearly, education policy has an impact on teachers. The focus of bargaining should be on the implementation of policies and not on the policies themselves. The necessary voice for teachers on the policy issues themselves should be in other forums.

The Council will include representatives from government, the BCTF and school trustees. There will be clear terms of reference for this Council, including providing government with recommendations on education policy matters. This work will also include providing recommendations on the allocation of the PEIF.

With a 10-year agreement the Council will provide:

- A clear voice for teachers in determining the allocation of available funding for priority issues;
- An education policy table, where educational issues can be appropriately introduced, considered and debated in a constructive way to assist in government decision making; and
- Recognition of the validity of teachers' voice in education policy discussions through a formal role as a partner with government, ideally meaning these issues no longer need to be addressed at the bargaining table.

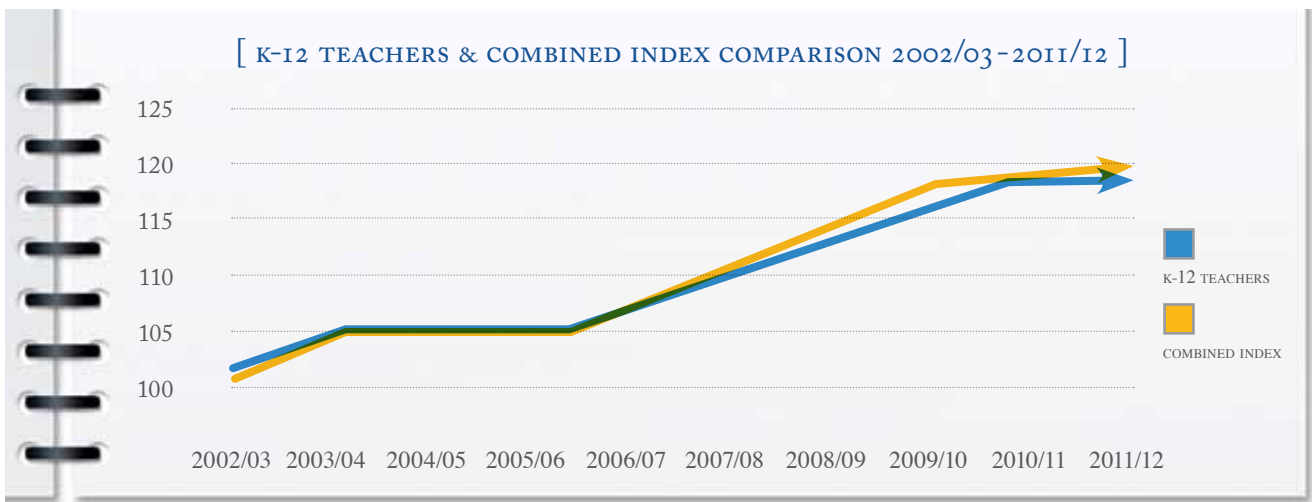
ELEMENT 3: INDEXING COMPENSATION

Salaries and benefits currently account for 89 percent of school district budgets – teacher compensation accounts for approximately 60 percent of school district budgets. Salaries and benefits often become the primary focus of any bargaining process. While an important element of any agreement, sometimes impasse over compensation can derail or detract from discussion of other vital issues such as workload or professional development.

The BCTF argues teachers in B.C. have fallen behind other public sector professionals in the Province and across Canada in terms of compensation. While government is reluctant to base compensation increases on comparisons to other jurisdictions where different fiscal and labour factors may be at play, it is reasonable to offer some level of consistency within a B.C. public sector context.

Under the new framework, teacher compensation would be tied to an index of other major public sector labour groups including nurses, college faculty and B.C. government employees. Taken together, the average annual increase across these three base groups over the past 10 years was 2 percent. By comparison, the average annual increase for public school teachers was 1.8 percent. This shows that increases over the past decade for teachers have not been significantly out of step. However, it also suggests that had teachers been indexed in this way over the past decade they would have seen slightly higher compensation increases on average.

The indexing approach would be a consultative process between the government and the BCTF. There would be negotiation regarding the distribution of the indexed amount among the various categories including wages, benefits and other compensatory matters.



With a 10-year agreement, this indexing approach will provide:

- Compensation certainty and fairness for teachers, with respectful compensation increases, reflecting those of other major B.C. public sector employee groups;
- Greater potential certainty for government and school districts; and
- The opportunity to focus negotiations on other priority issues on both sides of the table beyond deliberations over compensation.

ELEMENT 4: A MORE EFFECTIVE BARGAINING PROCESS

Collective bargaining that regularly leads to greater tensions, disrupts student learning, reduces public confidence and repeatedly ends in legislated settlements and litigation does not benefit anyone.

The first 3 elements of government's proposal demonstrate its willingness to offer significant incentives for a 10-year agreement and a genuine commitment to improving its relationship with the BCTF. A key part of this new framework includes a structured process to achieve collective agreements. But we also know there is no incentive, policy lever or legislation that can create the trust and compromise required to achieve that. However, a more effective process can help bridge the gap.

There are three approaches by which the terms and conditions of employment can be set:

1. They can be unilaterally set by the employer;
2. They can be set through a collective bargaining process including the potential for strikes and lockouts that eventually result in voluntary agreement; or
3. They can be set through a third-party process such as arbitration when collective bargaining fails to result in a voluntary agreement.

Government's goal is to establish bargaining and dispute resolution processes that can improve the opportunity for the parties to determine appropriate terms and conditions of employment, and provide the greatest opportunity for long-term labour peace with minimal disruption for students and families.

HOW *it* WILL WORK

The following proposed process and timeframes sets out how teacher collective bargaining would be structured to achieve an agreement by the start of the school year in September. In a typical bargaining year, this process would begin in January and also incorporate mandatory conciliation – distinct from a voluntary mediation process – to help the parties reach agreement before the start of the school year (see [Appendix A](#)). However, the proposed timeline presented here is condensed to reflect and respect the reality of a provincial general election in May 2013. While tight, it is manageable and still allows for resolution and certainty before the start of the school year.

NEGOTIATION

- Between **March 1 and April 1**, negotiations on provincial matters will begin as contemplated under the Labour Code.
- Local school districts and local teachers associations will begin negotiations at the same time on local matters.

MEDIATION

- On **June 15**, if an agreement has not been reached the Minister of Labour will appoint a special mediator to work with the parties.
- If an agreement has not been reached by **June 30**, the mediator will report out publicly on the issues in dispute and the cost implications of each of the parties' positions.
- If there is no agreement by **July 15**, the mediator will issue recommendations for settlement.
- If neither party rejects the mediator's recommendations by **July 25**, they become the basis for the new collective agreement.
- If government rejects the mediator's recommendations, it must provide an alternative offer for settlement by **August 7**.
- If the BCTF rejects the mediator's recommendations or government's alternative offer, they must issue strike notice by **August 31**. If they do not, then the mediator's recommendations or government's alternative offer will be deemed to be accepted and form the new collective agreement.
- Schools will not open at the start of the school year if strike notice is issued, unless the BCTF agrees not to disrupt school operations until a settlement is reached.

This new model for the bargaining process is a marked departure from how teacher bargaining currently works. It represents some compromise for both government and the BCTF, and some details of its structure and implementation are still to be determined. But it offers a number of important changes and improvements from the current model, including:

- Teachers will have a full right to strike.
- Government will negotiate directly with the BCTF on provincial matters.
- The process provides clear timelines and structures for resolution of provincial and local matters, providing a balance between certainty and the potential for a voluntary agreement. This reflects the recommendations made in the earlier Ready and Wright reports.

(MEDIATION CONTINUED)

- The process has built-in mediation processes to help resolve impasses, providing a balance between free negotiation and support if needed.
- The public and the negotiating parties will benefit from transparent assessment of the costs of all proposals on the table and their education implications, as well as public reporting of where a deal might be possible along with recommendations.

The Education Policy Council will provide a forum for the BCTF to have a voice in education policy matters, helping remove those issues as possible barriers to constructive and focused negotiation for the benefit of all parties. school operations until a settlement is reached.



Conclusion:

FOCUSING FORWARD

It is fair to say that the legacy of failed bargaining is in part due to the process and in part due to the mistrust created on both sides of the table. The framework proposed is a path that could carry the public education system beyond that legacy. There is work still to be done to make this approach possible. But we are prepared to take on the task because it is too important not to.

With all four elements taken together, we believe this is a workable response to one of the few shortcomings of B.C.'s education system. It offers potential for a respectful and responsible agreement with the BCTF. It offers the potential to focus the tremendous energy, enthusiasm and expertise of the education sector where it belongs: on transforming our education system so it meets students learning needs better than ever before. Government is committed to a more successful round of bargaining with a greater potential for long-term stability – and to have that achieved before the start of the 2013/14 school year.

As Thomas Fleming notes in *Worlds Apart*: "It is also time for British Columbians – in and outside public education – to ask themselves if they would like a future better than this troubled past." This is an important and urgent question because it is time for all British Columbians to trust that our education system genuinely does put the needs of students first – in actions as well as words.

There is no denying that any successful bargaining relationship depends on more than just a sound structure and process. It depends on a willingness to set aside the past and focus on the future. Government has taken this step because we believe it is time to do better. The next steps will need to be taken together.

APPENDIX A: NEW BARGAINING PROCESS

The timeline and process set out above reflect the need to accommodate the dynamics of a provincial general election in 2013. During a more typical bargaining year, government's proposed new bargaining process would follow the timeline set out below and include the additional value of a mandatory conciliator to help the parties reach agreement before the start of the school year. The BC Public School Employers' Association will support government on provincial bargaining and coordinate local bargaining by school districts.

January 15 – the Ministry of Education and the BCTF begin negotiations on provincial matters; local school districts and local teachers associations begin negotiations on local matters. A mutually agreed upon conciliator is identified in the event that conciliation is required as described below.

April 15 – either party in the negotiations will have the option to ask the Labour Relations Board to appoint a mediator to help negotiations progress.

April 30 – the mediator will report publicly on the results of the mediation to ensure public transparency but without making recommendations on any unresolved matters.

May 1 – if an agreement has not been reached, either through direct negotiation or with the support of the mediator, all matters will be referred to the conciliator. The conciliator will work within prescribed terms of reference.

May 30 – to provide further transparency, the conciliator will report publicly on the issues being negotiated and the costs and other implications of each of the parties' positions.

June 30 – if there is no agreement, the conciliator will issue recommendations for settlement in a report that will include complete information on the cost and other implications of the recommendations.

July 10 – if the parties do not reject the conciliator's recommendations in writing, then those recommendations shall immediately comprise the new collective agreement.

July 20 – if government has rejected the conciliator's recommendations, it must provide an alternative offer for settlement.

August 31 – if the BCTF has rejected the conciliator's recommendations or government's alternative offer and has not provided government of notice in writing by August 15 of its intention to strike effective September 1, then the conciliator's recommendations or the government's alternative offer as the case may be will immediately comprise the collective agreement.

September 1 – if the BCTF has provided notice of its intention to strike effective September 1, schools will not open at the start of the school year unless a settlement has been achieved or unless the BCTF agrees not to disrupt school operations until a settlement is reached.

APPENDIX B: SUMMARY *of* PARTNER RECOMMENDATIONS

The partners listed below were invited to submit their recommendations for improving the teacher bargaining model. Government appreciates their thoughtful and detailed submissions. What follows is a summary of the main recommendations and proposals from each partner. PDF copies of the full respective submissions are also provided for reference online.

British Columbia Teachers' Federation (BCTF)

In its submission to government, the BCTF proposed:

1. Provincial bargaining between the BCTF and government regarding salary, paid leaves, benefits, class size, class composition, hours of work and staffing levels for specialist teachers.
2. Local bargaining of all other items.
3. Both local and provincial bargaining be conducted pursuant to the full rights and obligations of the Labour Relations Code.
4. Education should not be considered an essential service under the Labour Relations Code, strike/lockout are fundamental to the health of a collective bargaining structure.
5. Effective collective bargaining may occur with or without the assistance from third parties.
6. Teachers have no voice and no mechanisms available to influence fundamental working conditions.

British Columbia School Trustees' Association (BCSTA)

In its submission to government, the BCSTA recommended:

1. A mediated process implemented prior to the start of actual negotiations to establish a set of negotiation values, parameters and protocols among the parties.
2. In advance of the next round of negotiations, discussions between the provincial government BCPSEA and BCSTA on the appropriate role for government in the bargaining process and how the voice of boards of education can be more effectively represented.
3. The BCSTA continue to proactively represent the collective voice of boards of education in establishing a mandate that continuously strengthens public education.
4. The BCSTA collaborate with the BCPSEA to establish communication mechanisms that will provide clear and consistent messaging for boards of education for use with their local communities.
5. The BCSTA advocate for a full review of the essential services designation and its impact on public education collective bargaining.
6. The BCSTA encourage the government to revisit the recommendations made in the Wright and Ready reports and that time-limited consequence are built into the bargaining process.

British Columbia Public School Employers' Association (BCPSEA)

In its submission, the BCPSEA proposed the following elements of a new bargaining model (consistent to a large degree with its agreement in committee with the BCTF entered into in December 2012):

1. Preparation: the BCPSEA and BCTF establish their respective bargaining objectives independently, but also develop a common understanding of data relevant to bargaining matters (total cost of compensation, salary and benefits costs, teacher demographics and labour market issues).
2. Facilitator: eight months prior to the expiry of a collective agreement a facilitator is agreed upon by both parties or, should agreement not be possible, appointed by the Minister of Labour. The facilitator shall begin working immediately with the parties with the authority to continue throughout the negotiations and have the discretion to make recommendations to the parties.
3. Provincial Bargaining: four months prior to the expiry of a collective agreement, the provincial parties begin bargaining. If no agreement is reached by the expiry of the existing collective agreement, the facilitator will issue a bargaining progress report and the parties may exercise their respective rights to strike or lockout in accordance with the Labour Relations Code. If no agreement is reached within 30 days of the bargaining progress report, the facilitator is appointed as a mediator/arbitrator. If the mediator/arbitrator concludes a timely agreement is not possible, they will instruct both parties to submit a final proposal on all outstanding matters (including local matters) within one week. The mediator/arbitrator will establish the process to conclude a collective agreement.
4. Local Bargaining: eight months prior to the expiry of a collective agreement, the BCPSEA and BCTF will meet to review their respective processes for local teacher union-district bargaining. Prior to the expiry of the collective agreement the local parties will provide a status report and the BCPSEA and BCTF will provide a status report to the facilitator. If a district and local union cannot reach agreement, the outstanding matters are referred to resolution through the provincial process.
5. First Year Transitional Provisions: amend the Public Education Labour Relations Act to codify the split of issues, and establish a process to standardize provisions designated as provincial matters.

As a possible alternative, the BCPSEA also proposed a Permanent Teacher-Public School Employer Collective Bargaining Dispute Resolution Panel that would serve to resolve a bargaining impasse.

British Columbia School Superintendents' Association (BCSSA)

In its submission to government, the BCSSA proposed:

1. Maintaining the provincial/local split of issues, with those related to money at the provincial table.
2. Including a better process for developing employer/management bargaining objectives.
3. Shortened and defined timelines for bargaining.
4. Eliminating the essential services designation to allow for full strike and lockout.
5. Having a mediator/arbitrator throughout the bargaining process.
6. Having government at the bargaining table.
7. A media blackout during bargaining.

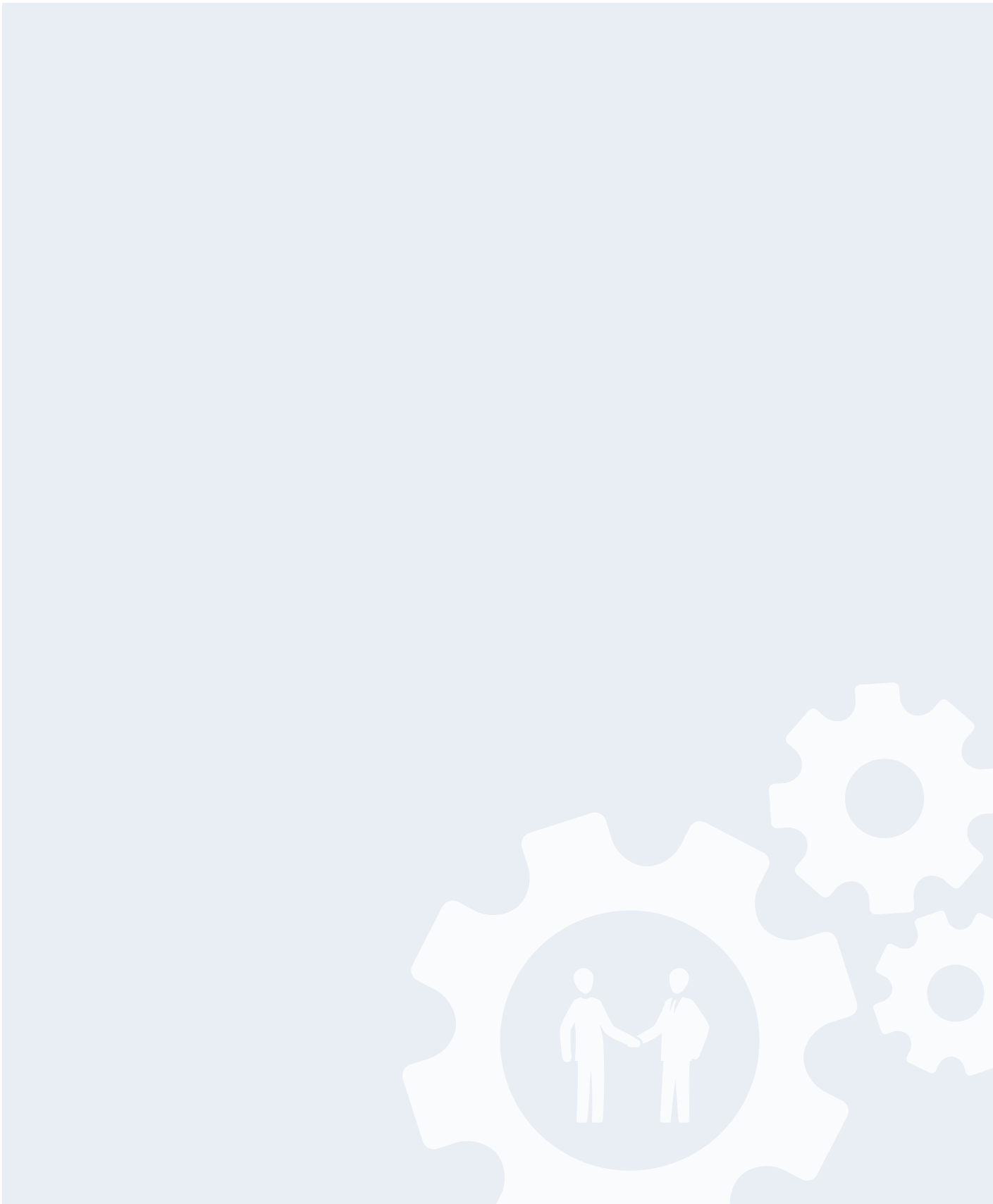
British Columbia Confederation of Parent Advisory Councils (BCCPAC)

In its submission to government, the BCCPAC proposed:

1. Implementation of all the recommendations made by Vince Ready in his 2007 report.
2. Implementation of the remaining recommendations of the 2004 report by Don Wright.
3. The ability to strike, lock out or withdraw services only when the goal is to achieve a collective agreement. Labour action for any other reason should be prohibited by law.
4. Requirements for bargaining teams to have a full appreciation of the constraints the other side must operate under and a full and certified understanding of the purpose, method, and goals of the collective bargaining system.
5. Inclusion of parents in the bargaining system to represent the rights of the students.
6. Inclusion of the parents in any negotiations that involve “non-work” items. Parents should be able to volunteer to replace teachers for any activity that is not teacher work.
7. In the event of confrontational bargaining, restrictions on teacher activities need to be implemented consistently across the Province. These actions need to be clearly defined so parents can easily tell if an activity is affected due to labour action.
8. Dynamic bargaining such that the contract contains trigger clauses that allow for certain areas of the contract to be re-opened after the occurrence of specific non-culpable events. This would allow the main contract to last for a much longer time period.
9. An arbitrator to establish the cost of each presented proposal and to establish any other factual information in the event that both sides cannot agree. This is in addition to the recommendation by Vince Ready that the cost of each proposal be valued jointly.
10. The ability for either side to apply to the arbitrator for a judgement as to the accuracy of any press releases or statements made by the other side, and, in the event that inaccuracies in released material are found, prominent corrections be posted by the erring parties using the same methods as were used to spread the original erroneous report. This shall include omissions of critical information if the omission of that information makes the release misleading.
11. Investigation of the de-politicization of education in the province of B.C. as practised in Finland.
(See: http://siteresources.worldbank.org/EDUCATION/Resources/278200-1099079877269/547664-1099079967208/Education_in_Finland_May06.pdf).
12. A mechanism which imposes the costs of any labour action by either party on the parties involved in the dispute. Currently students and parents are most affected by labour disputes, not the bargaining parties. In fact, at times it seems there is little incentive for either bargaining party to reach an agreement.

British Columbia Principals’ and Vice-Principals’ Association (BCPVPA)

The BCPVPA declined to submit a response to government’s invitation for input.





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