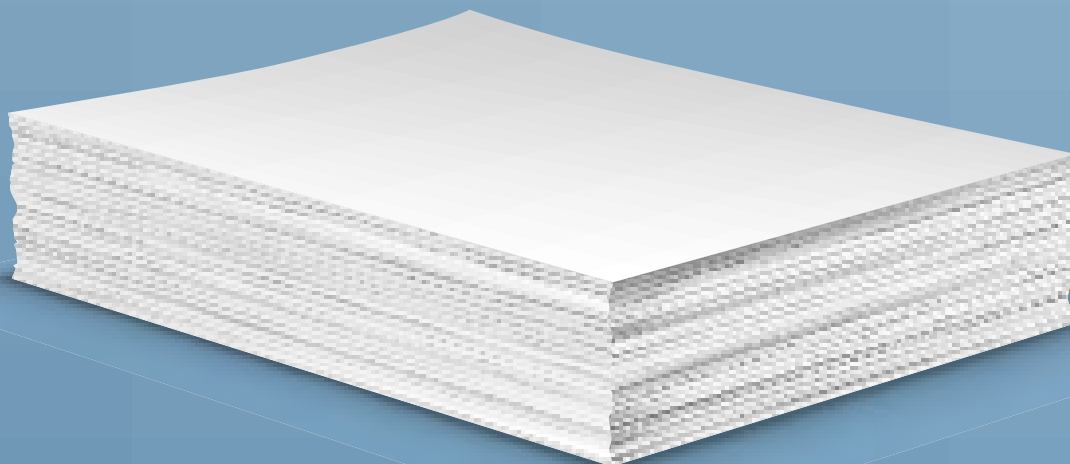


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Personal Services Contract



Collective Agreement

What Every School Leader Needs to Know

The Context

In 1987, the provincial government introduced two bills: an amendment to the Labour Code, and the Teaching Profession Act. This legislation gave the BC Teachers' Federation (BCTF) union status, including the right to collective bargaining, and led to the expulsion of Principals and Vice-Principals from the union and the creation of the BC Principals' & Vice-Principals' Association.

BC Principals and Vice-Principals became 'Administrative Officers' who were covered by the BC Employment Standards Act and not covered by the Labour Code. Our members were considered managers whose terms and conditions of employment were to be detailed in Personal Services Contracts rather than collective agreements.

For thirty years, the BCPVPA has assisted its members and local associations within sixty districts with their contract negotiations. However, there is no obligation for the employer to offer a Principal the same contract as those given to other administrators in the same district.

Despite this, the BCPVPA analyses contracts and offers suggestions for improvements. We have had some notable successes, such as persuading many districts to employ our members on continuing rather than term contracts. We have also been very proactive in working towards fair and equitable severance provisions, as well as securing members' constitutional rights under Section 21, whereby the board of education must offer the Principal, Vice-Principal or Director of Instruction a teaching position in the school district prior to the expiry of the contract or the effective date of the dismissal without cause.

What is a Personal Services Contract?

The Personal Services Contract defines the relationship between the Board of Education and the employee, with the objective that both parties understand the terms and conditions that apply to their employment agreement.

Personal Services Contracts come in different forms: there is no standard contract model used across the province, or even across districts. There is no regulation of policy that states that all contracts must be the same; however, there are common elements and clauses. These may include:

- nature of assignment
- type of appointment (e.g. term, continuing, temporary, acting)
- re-assignment language
- vacation
- leaves of absence
- duty of good faith
- salary
- benefits
- sick leave provisions
- professional fees and duties
- indemnity
- suspension
- termination
- contract review
- dispute resolution
- general interpretation

Some elements of a Personal Services Contract that may be part of the employment plan can include itemized expenses, break-down of benefits, professional development (ProD) allotments, moving allowance, and evaluation procedures.

The primary goal of negotiation is to clarify understanding of the Contract clauses, and to ensure that the contract accurately reflects what was agreed. The power of negotiations is when both sides are authorized to find solutions while investing time in understanding one another's needs and perspectives. Once a contract is signed, it cannot be unilaterally changed, but it can be reviewed from time to time. In addition to any written employment agreement, there are other district practices, policies, and statutes that may affect employment relationships, including the School Act, Employment Standards Act, Workers Compensation Act, Human Rights Code, Common Law, Civil Law, and Indigenous Principles. In most cases, legislation overrides contradictory provisions set out within a written contract.

Why are Principals and Vice-Principals Not Members of a Union?

Principals and Vice-Principals are responsible for both leadership and management of schools. While the BC Labour Relations Code (LRC) does not define "managers", there is an adjudication process to analyze the job responsibilities of an employee to determine the number of itemized management responsibilities. At this time, Principals are considered managers and therefore are prohibited by the Labour Relations Code from becoming a union. The BCPVPA will continue to support our local Chapters in their negotiation efforts with their employers. We urge Chapters to reach out for professional guidance that can help to improve our members' terms and conditions of employment.

What is the Difference Between the Labour Relations Code and the Employment Standards Act?

The Labour Relations Code governs all aspects of the process of union certification (or unionization) and collective bargaining between provincially regulated employers, unions, and employees. Labour law generally applies to work environments that are governed by the BC Labour Relations Code. The LRC governs the establishment of union representation, collective bargaining, and many other aspects of the relationship between employers, their employees, and unions.

The Employment Standards legislation within Canada sets out the minimum legal requirements that an employer must follow within areas such as minimum wage, statutory holidays, vacation, leaves, notice of termination, and severance pay. Employment law generally deals with individual employment contracts in which the employee is not either a member of a union or bound by a collective bargaining agreement. Principals and Vice-Principals generally receive more than the minimum legal requirement of salary and benefits as part of the total compensation package.



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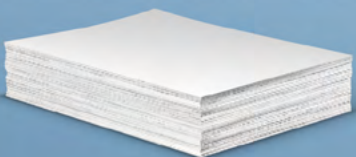
What is the Difference Between a Bargaining Unit and Negotiation Agency?

Teachers belong to a union for the purposes of bargaining. In a labour context, a bargaining unit is comprised of two or more employees who share common interest in the terms and conditions of their contract. Essentially, teachers seek representation by their union. Common terms and conditions include bargaining relationship, salary, benefits, employment rights, working conditions, personnel practices, leaves of absence, and letters of understanding. Teachers who are part of the BCTF have both provincial and local collective agreements. The provincial Collective Agreement is between accredited bargaining agents: the B.C. Public School's Employer Association (BCPSEA) on behalf of the Employer, and the BCTF on behalf of Teachers. The local Collective Agreement is between BCPSEA and the local Board of Education, and BCTF and the local Teacher's Association. At the conclusion of Collective Bargaining, BCPSEA creates a local 'working document' for each school district that incorporates both the provincially and locally negotiated changes.

District Principals, Principals, and Vice-Principals belong to an Association, and each have a Personal Services Contract. Many contracts allow for negotiation agency whereby the local Principals and Vice-Principals association can act on behalf of the individual, as their representative, in a negotiation with the local Board of Education's negotiating representative(s). Boards of Education often consult with BCPSEA on all matters affecting the employment relationship, whereas local associations consult with BCPVPA. Negotiation agency is recognized as having full or limited authority to act on the behalf of the Principals and Vice-Principals being represented. Local negotiation agency provisions do not necessarily imply that leverage is available in negotiations due to the existing power imbalance, and the variance in skill, knowledge, experience, and ability required for effective negotiations.

Why are Most Principal and Vice-Principal Contracts Similar within a District?

A common practice of most school districts and local BCPVPA Chapters is to negotiate a contract that applies to all Principals and Vice-Principals. It can be difficult to manage individual contracts that vary in terms and conditions of employment within a school district; in some cases, this puts the employer at risk of being discriminatory and therefore it is not common practice. To ensure your understanding of the terms and conditions of your own Personal Services Contract, the BCPVPA recommends that you seek legal advice or counsel prior to signing.



Please reach out to our Member Support Services team
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