



Report on Education

from the Deputy Minister of Education

May 26, 2006

Bill 33 addressing class size and class composition issues through amendments to the *School Act* passed final reading. A regulation is still required to bring the amendments into force, but I expect that the new requirements will take effect for next school year. The existing class size regulation will need to be amended to accommodate the changes to the *School Act*, and we will advise you of those changes in due course.

We have been fielding a number of questions about the meaning of the new provisions. Of course everyone wants to interpret the legislation in a way that suits them, so I thought it might assist you with your planning for school organization if we did a "Question and Answer" for some common issues. Naturally, not all the questions have been posed yet, and we will be continuing to address new issues as implementation unfolds.

In addition, we have assembled a team of experienced superintendents to make themselves available for district presentations to help district and school-based administrators understand and implement the legislation. Please contact Rick Davis (rick.davis@gov.bc.ca) if you wish to make use of this resource.

Questions and Answers

Q – Is there any change to the limits for primary grades?

A – No. The class size limits for K and grades 1 – 3 remain at 22 and 24 respectively. The maximum district averages for K and grades 1 – 3 also remain at 19 and 21, as before.

Q – Are the new class size provisions like the ones for primary grades?

A – No. Primary class size maximums cannot be exceeded under any circumstances. When a grade 4 – 7 class exceeds 30, the consent of the teacher of the class is required, and the principal and superintendent must be of the opinion that

the class is appropriate for student learning. There is no firm limit for grades 8 – 12, but whenever a class exceeds 30, the principal must consult with the teacher of that class regarding the learning conditions. If a class exceeds 30, the principal and superintendent must be of the opinion that the learning conditions are appropriate. The superintendent must include the rationale for each class that is over 30 in his/her report to the Board.

Grade	Limit or Guideline	Exceed when:
K	22	Never
1 - 3	24	Never
4 - 7	30	Consent of the teacher received Principal and Superintendent are of the opinion learning conditions are appropriate Rationale provided
8 - 12	None but when class exceeds 30.	Consultation with teacher of the class Principal and Superintendent are of the opinion learning conditions are appropriate Rationale provided

Q – My staff representative or local president has said that he/she must be present each time I consult with a teacher regarding these new provisions. Is that true?

A – The legislation does not give the union or its representatives any standing in these discussions. However, your local version of the collective agreement or your district practices may provide guidance with respect to the right of teachers to representation

or the right of the union to be present. You should consult with your superintendent on this issue.

Q – How many students with special needs are permitted in a class? Is there a cap of three?

A – There is no cap on the number of students with special needs in a class. What exists is a guarantee that when there are more than three students with special needs in a class that a meaningful consultation has occurred with the teacher of that class. That consultation would be similar to your current practices where the needs of the students with special needs, the needs of the classroom and the supports for the learning of all students are discussed. Where more than three students with special needs are integrated, the principal and superintendent must confirm that they are of the opinion that the learning conditions in the classroom are appropriate for all students. Unlike grades 4 to 12 classes with more than 30 students, no rationale for that class organization is reported. This is in order to provide for the privacy of students with special needs, but clearly, a rationale must exist.

Q - This legislation excludes students who have exceptional gifts or talents from being considered under Section 11 (2.3). Which remaining students are included as “a student for whom an individual education plan must be designed”?

A - This section of legislation covers students with special needs, under certain circumstances. A “student with special needs” is defined, in Ministerial Order 150/89 as a “a student who has a disability of an intellectual, physical, sensory, emotional or behavioral nature, has a learning disability, or has exceptional gifts or talents”. For the purposes of this legislation, students who have exceptional gifts or talents are not included. Further information about “students with special needs” can be found in Special Education Services. A *Manual of Policies, Procedures and Guidelines* (Section E, at www.bced.gov.bc.ca/special/epandg/).

The Individual Education Plan Order (M638/95) requires that a student with special needs be provided with an IEP, when at least one of three conditions is met:

- a the student with special needs requires more than minor adaptations to his educational program;
- b some or all aspects of the educational program provided to the student with special needs have been modified; or
- c the student with special needs requires more than 25 hours of remedial instruction by a person other than the classroom teacher.

Q – What students are not counted as students “for whom an individual education plan must be designed”?

A – Some examples include students who use English as a Second Language, students who may present with some learning challenges but are not designated as “students with special needs”; students who receive Learning Assistance or other support services but do not meet the requirements described above and, of course, gifted students.

Q – Can a teacher refuse to accept a student with special needs in his/her class?

A – No. However, the principal must be confident that resources appropriate to that class are made available so as to provide an acceptable learning environment for all students. There should be no need under this legislation to deny a student access to a school or a class. The decision is really about aligning resources with student learning needs in classrooms.

Q – How do I involve my School Planning Council? What does it need to know?

A – Within 15 school days of the beginning of school, a draft organizational plan showing the proposed size of classes and

the distribution of students with special needs should be provided to the School Planning Council. The rationale for any classes over 30 should be provided to the School Planning Council as this information will be made public in the Superintendent's report to the Board. Prior to this meeting, the principal should seek consent or enter into consultation as required. After this meeting and consideration of the views of the School Planning Council, the principal must make a report to the superintendent regarding the organization of classes.

Q – I do not have a SPC in my school or it is unlikely that one will form within 15 school days of school opening. What do I do?

A – This is an issue you should discuss with your superintendent. The *School Act* requires that a School Planning Council be formed in each school. At a recent meeting of DPAC chairs this challenge was discussed, and they undertook to return to their districts to amend processes to provide for a speedy formation of SPCs. In some schools, however, this may remain a problem. The *School Act*, section 8.1(1) and 8.1(5), speaks to this matter and provides for the appointment of a SPC under some circumstances. Principals may wish to establish the SPC this month in preparation for the fall if no SPC presently exists.

Q – What happens if class sizes or numbers of students with special needs change during the year to exceed the numbers in the 30 or three, respectively?

A – These provisions apply all year. If you wish to place the 31st grade 4 student in a class at any time during the school year, you will need to seek the consent of the teacher and need to be of the opinion that the learning conditions remain appropriate. If a fourth student with special needs is enrolled in a class during the year, you must consult with the teacher, consider the learning conditions of the class and must be of the opinion that these conditions are appropriate. You must also report these changes to the SPC and the superintendent as you do at the beginning of the year.

Q – The district-wide averages are K – 19, grades 1 to 3 – 22, grades 4 to 7 – 28 and grades 8 to 12 – 30. Does the average class size in my school need to be below those maximum averages? How does the class size in my school impact on the district?

A – Your school's class sizes will have an impact on the district average. By definition, half the schools in your district will have school class size averages above the district average and half will have school class size averages below the district average. It is up to the district to coordinate the average class sizes so as not to exceed the limits for each aggregate. You will need to be in frequent contact with the school district person responsible for monitoring district averages as you organize your school. There is no provision permitting a district to exceed the district-wide average at any time or under any circumstances.

Q – What about split classes that include students from more than one of the aggregates?

A – You may have classes that contain K students with older students, grades 1- 3 students with older students or grades 4 – 7 students with older students. The general rule should be that the requirements for the youngest children enrolled should apply to the entire class. So the maximum class size permitted for a grade 3/4 split will be 24 as if it were a straight grade 3 class. If you have a grade 6/7 split you must seek teacher consent to exceed 30, and so on. For the purpose of calculating the average class sizes, use the method for pro-rating split classes as outlined in the Class Size Regulation.

Q – I am worried that these new provisions may be unworkable, and limit choice and quality programs for students. Is there an opportunity for input as to how this actually works?

A – Yes. Bill 33 provides for a review of the effectiveness of the amendments in achieving our goals for student learning.

It is important to assemble evidence of the effect of these amendments when implemented. Please keep a record of practices that work effectively and problems encountered so that these can form the basis of a discussion when the impact is assessed.

Q – I have 64 grade 6 students in my school and neither grade 6 teacher will give the consent needed to exceed a class size of 30. I have had a number of discussions with them to no avail. I know classes of 32 will not create poor learning conditions. Others on staff support me in making two classes of 32 each as it benefits the school as a whole. Can I move ahead and make these two classes in grade 6? What are my options?

A – No. Organizing classes over 30 requires the individual consent of the teacher of the class. It is not a staff or committee decision. Your options include organizing all the classes in the school differently to accommodate the limits. This may mean that a number of unbalanced split classes result. You may use some non-enrolling staffing to create a new division. The decision-making processes should be transparent and the consequence of your final decision clear to teachers and parents. You have an obligation on behalf of your board to comply with the legislation. The district may be able to provide additional resources to address learning conditions in a way that improves the classroom.

Q – I organized a class of 32 grade 4 students at the beginning of the year. It is now mid October and the teacher, who had given consent, is off on maternity leave for the rest of the year and I have hired a new teacher to replace her. Is she required to give consent also?

A – The legislation does not contemplate provision of consent more than once. Neither can consent, once given, be withdrawn. Once the class is organized it remains in place for the year.

Q – I wish to exceed 30 in some high school classes, but teachers in my school will not talk to me about the classes. Can I exceed 30 if I believe the learning conditions are appropriate?

A – Yes. The consultation process requires that you provide relevant information to the teacher, provide time for the teacher to consider the information, and come to a discussion regarding the class. You listen to the teacher(s) with an open mind, hearing and considering the views of the teacher(s). If the teacher does not engage in the consultation, you need to do your part before arriving at a final decision, but you can proceed to your decision.

Q – I plan to organize a grade 7 class of 31, but the teacher will not discuss the matter as I seek consent. The learning situation in the class will be appropriate. Can I organize the class at 31?

A – No, as no consent has been given. Consent requires the teacher's participation.

This legislation is provided to guide schools in the organization of learning classes. If there is cooperation of the partners this legislation will provide a basis for further discussions of learning conditions.