

**Restored Clauses As Per Supreme Court of Canada Decision  
on November 10, 2016**

The following clauses are restored as per the Supreme Court of Canada decision:

- C.4.2(c) Teacher Assignments
- D.8 Class Size
- D.9 Integration
- D.10.1 Home Education
- D.16.1.c Kindergarten/Half Day Primary
- D.17.2 Lay Personnel
- D.19.6 Other — Subject and/or Grade Markers
- D.23.1 School Libraries
- D.23.1.a.ii Staffing — Assignment
- D.23.3 “ ”
- D.30 Staffing Formula. Non-Enrolling/Eng. As a Second Language Teachers
- G.13.2.a Staff Committee Functions
- H.3 Memorandum of Agreement re. K-3 Primary Class
- H.4 Provincial LOU No. 3 Mid-Contract Modifications
- H.4.9 Accounting Manual Differences
- H.4.10 Combined Intermediate/Primary Class Sizes
- H.4.11 ESL Funding — Appendix A
- H.4.12 Spring Staffing Process

**Note:** The above referenced clauses are as listed in the 1998 - 2001 Collective Agreement.

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**C.4. TEACHER ASSIGNMENTS**

It is mutually agreed between the parties that the timetable can markedly affect the learning situation in a school. The Board shall make reasonable efforts to ensure that the best possible timetable is provided for every school.

2. BEGINNING TEACHERS

It is mutually agreed between the parties that it is in the best interests of the learning situation to maintain a program of recruitment designed to ensure a competent and balanced teaching staff. To this end, in the assignment of beginning teachers particular consideration shall be given to such items as:

- c. Class composition or class size, and

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**D.8. CLASS SIZE**

The Parties recognize that appropriate class size and class composition are desirable educational priorities.

1. CLASS SIZE

It is agreed that class size is affected by various factors including, but not limited to, the following:

- a. variations in the size of school populations;
- b. the range of student needs and abilities;
- c. the nature of the curriculum being presented to the students;
- d. the range and extent of services other than classroom teaching;
- e. the physical restrictions of equipment and space, particularly in specialty subject areas; and
- f. secondary school programming to complete course or subject requirements for graduation.

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**IMPORTANT NOTE:**

The following class size language is significantly affected by the 'Memorandum of Agreement - K-3 Primary Class Size'. This Memorandum is attached to this contract (See H.3).

The basics of the Memorandum provide the following maximum class sizes;

	98-99	99-00	00-01
K	20	20	20
1	25	23	22
2		23	22
3		23	22

For further details on split classes and other details, the actual Memorandum (found at the end of this booklet) should be consulted.

Effective with the appropriate school year the following class size maxima will be in effect by October 15 or within three weeks after the commencement date of a second semester in a semestered school or the commencement date for classes enrolling dual entry students. These maxima shall be in effect through to May 1 of each school year.

Grade/Subject	September 1994 Maximum
Kindergarten (Half Day Primary)	22
Primary (Grades 1 through 3)	26
Intermediate (Grades 4 through 7)	30
Secondary (Grades 8 through 12)	31
Home Economics and Industrial Education Laboratories/Shops	26
Science Labs	30
Special Needs (as defined in D.8.3.a.ii.)	10
ESL Classes	20

3. OTHER

a. GENERAL

- i. Extra consideration will be given to class size for those regular classes which include students designated as special education students as defined in D.8.3.a.ii. In this instance, extra consideration will normally mean the class size maxima for those regular classes which include 2 or more students designated as special education students shall be at least one less than listed in D.8.2. above.
- ii. No teacher shall be required to enrol in a regular enrolling class more than two students with special needs falling within the severe behaviour, dependent handicapped, moderately mentally handicapped, severely/ profoundly handicapped, physically handicapped, and autistic designations unless it is educationally sound, recommended by the school-based resource team and is agreeable to the receiving teacher. Agreement will not be unreasonably withheld. When integrating other special needs students into a regular enrolling class, the provisions of D.9. (Integration) shall apply.

This provision shall not apply to special needs or protected classes. A protected class is a class designated by the district and consists of up to 18 students of which up to 5 are special education students (severe learning disabilities and severe behaviour disorder).

c. SECONDARY

- ii. When assigning students to a laboratory, shop, or other specialized classroom, consideration will be given to the number of students for which the facilities were designed.

4. EXCEPTIONS

- a. Band, choir, physical education or other specialized classes may exceed the class size maxima when it is educationally sound and where the teacher is agreeable. Such agreement will not be unreasonably withheld.
- b. Class size maxima may be exceeded:
  - i. when a teacher agrees to fulfil a particular educational purpose through a larger grouping of students. Such agreement will not be unreasonably withheld.
  - ii. when there is insufficient classroom space or a lack of a qualified teacher in which case the Board agrees to take all reasonable steps to provide space as soon as possible and recruit staff to the extent possible.
- c. It is recognized that class size maxima may be exceeded due to unforeseen circumstances but may be exceeded for no longer than two weeks unless the Association agrees otherwise.

5. REMEDIES

- a. In the event that either party wishes that a particular response to a specific class size problem be considered, then the parties will meet to discuss the matter and may mutually agree upon a response.
- b. The Board and the Association agree that if external financial, legislative, or regulatory constraints render the Board unable to comply with the class size maxima contained in this article, then the Board may exceed the class size maxima only after consultation with the Association. "Consultation" shall mean meaningful discussions in good faith between the respective parties and other parties that might be affected in an attempt to arrive at a mutual agreement.

6. 1991 LETTER OF AGREEMENT RE: CLASS SIZE AVERAGE

**LETTER OF AGREEMENT**  
RE: DISTRICT CLASS SIZE AVERAGE  
BETWEEN  
THE BOARD OF SCHOOL TRUSTEES S.D. NO. 41 (BURNABY)  
AND  
THE BURNABY TEACHERS' ASSOCIATION

It is agreed between the parties that while the terms and conditions of this collective agreement are in effect as per A.1. the following shall continue to apply as of September 30 in each school year:

1. The district class size average for elementary schools shall be no greater than 24.3. This figure shall not include classes designated as protected, ESL, or special needs. A protected class is designated by the district and consists of up to 18 students of which up to 6 are special education students (severe learning disabilities and severe behaviour disorder).
  2. The district class size average for secondary schools shall be no greater than 25.0. This figure shall not include provincially funded programs, alternate programs, classes designated as special needs, ESL classes, resource or study blocks, leadership/tutorial/counselling blocks, or protected classes.
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#### **D.9. INTEGRATION**

2. Consideration for integrating a student with special needs shall be determined by the student's educational needs and factors such as:
  - a. The class size and composition;
  - b. The number of students with special needs enrolled in the class;
  - c. School resources.
4. Special consideration shall be given for the provision of additional resources that are required to integrate an exceptional student into a classroom bearing in mind the need to maximize educational benefits With the resources available at any time. These resources may include:
  - a. Consideration for a lower class size;
  - b. Provision for consultation and/or in-service;
  - c. Special equipment and materials;
  - d. Special education assistant time;
  - e. Assistance from a specialized teacher;
  - f. Release time for the teacher;
  - g. Appropriate facilities and equipment;
  - h. An appropriate emergency communications system; and
  - i. Qualified relieving teachers-on-call.
5. The Board will provide release time for collaboration and resource team meetings on special needs students at the school level based on 2% of the school student population at that school.

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**D.10.1. HOME EDUCATION**

1. When an enrolling classroom teacher is required to provide educational services to Home Education students as defined in the Act and Regulations, each Home Student will be counted a member of that teacher's class for the purpose of class size.

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**D.16. KINDERGARTENS/HALF DAY PRIMARY**

1. The Board shall make reasonable effort to ensure that the following apply:
  - c. Instruction: Children in kindergarten classes may be combined with other elementary pupils only when it has been determined that it is to the benefit and advantage of the children involved and is agreeable to the teachers concerned.

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**D.17. LAY PERSONNEL**

2. ADDITIONAL LAY ASSISTANCE
  - a. Permanent: Representations may be made by the Association at any time to the Board or its named officials concerning the assignment of additional lay personnel. As a general rule such assignments, if approved, shall coincide with the Board's fiscal year.
  - b. Temporary: Representatives may be made by the Association at any time to the Board or its named officials concerning the assignment of temporary lay personnel. Such assignments may be in the areas of program development, curriculum development, in-service activities, etc.

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**D.19. SUBJECT MARKERS - ENGLISH AND SOCIAL STUDIES**

Where subject markers are employed, the following criteria shall apply:

6. OTHER - SUBJECT AND/OR GRADE MARKERS

Representations may be made by the Association at any time to the Board or its named officials concerning the assignment of additional markers. As a general rule such assignments, if approved, shall coincide with the Board's fiscal year.

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**D.23. SCHOOL LIBRARIES**

1. Recognizing that in an age of increasing individualized instruction the library plays a central role in the educational process, as well as serving as a resource centre, it is mutually agreed between the parties that as an objective, and wherever possible the libraries shall be of an adequate size, amply stocked and staffed. It is understood, however, that this is to be done bearing in mind the need to maximize educational benefits with the resources available at any time. In accordance with this the following criteria shall be established:

- a. STAFFING
    - ii. Assignment: Teachers assigned as teacher-librarians shall not have other subjects allotted during their library assigned time, nor shall the assigned library time be used to provide non-instructional time.
3. No less than 0.5 teacher-librarian allocations per elementary school.

**D.30. STAFFING FORMULA - NON-ENROLLING/ENGLISH AS A SECOND LANGUAGE TEACHERS**  
*(P.C. Article D.1)*

3. NON-ENROLLING STAFFING RATIOS

Note: The following non-enrolling and ESL staffing ratios represent Burnaby School District ratios as listed in Appendix A of the FDA.

- a. Employee staffing ratios in each category shall not decrease below the number reported in the 1997/98 Ministry form 1530, as follows:

Teacher Librarians	1:747.4
Counsellor	1:587
Learning Assistance Teachers	1:834
Special Education Resource Teachers	1:331

- b. Teacher Librarians

Effective July 1, 1998, teacher librarians shall be provided on a minimum pro-rated basis of teacher librarians to students in the ratio of 1:747.

Effective July 1, 1999, teacher librarians shall be provided on a minimum pro-rated basis of at least one teacher librarian to 702 students.

- c. Counsellors

Effective July 1, 1998, counsellors shall be provided on a minimum pro-rated basis of at least one counsellor to 587 students.

- d. Learning Assistance Teachers

Effective July 1, 1998, learning assistance teachers shall be provided on a minimum pro-rated basis of learning assistance teachers to students in the ratio of 1:619.

Effective July 1, 2000, learning assistance teachers shall be provided on a minimum pro-rated basis of at least one learning assistance teacher to 504 students.

- e. Special Education Resource Teachers

Special education resource teachers shall be defined as those teachers assigned to programs 1.16, 1.17 and 1.18 by School Districts on Ministry form 1530, September 1997,

Effective July 1, 1998, special education resource teachers shall be provided on a minimum pro-rated basis of at least one special education resource teacher to 331 students.

#### 4. SUPPORT FOR ESL STUDENTS

- a. ESL students shall be defined pursuant to the definition used for reporting to the Ministry in the 1996 form 1701, "those students whose English language performance is sufficiently different from standard English to prevent them from reaching their potential".
- b. Effective July 1, 1998, teachers specifically assigned to providing instruction to ESL students shall be provided on a minimum pro-rated basis of at least one (1) ESL teacher to seventy four (74) identified students. Staffing ratios shall not decrease below the number reflected in the 1997/98 Ministry form, that is, 1:75.

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### **G: COMMITTEES**

#### **G.13. STAFF COMMITTEES**

Staff Committees shall operate without derogating from the duties and authorities vested in school principals pursuant to the School Act and Regulations. Staff committees are seen to be an effective way of enhancing decision making and establishing collegial responsibility. It is mutually agreed between the Parties that a staff committee shall be established in a school.

#### 2. FUNCTIONS

- a. To critically examine on the basis of sound educational process, class composition and class size, the utilization of staff including the use of auxiliary school personnel, for the purpose of assisting the administration in determining the most effective utilization of staff resources at the school level.

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### **H.3. MEMORANDUM OF AGREEMENT RE K-3 PRIMARY CLASS SIZE**

#### **Memorandum of Agreement K - 3 Primary Class Size**

This Memorandum of Agreement is appended to and will be signed off as part of the Agreement in Committee between the British Columbia Teachers' Federation and the Government of British Columbia entered into on 17th day of April, 1998.

1. The parties are committed to reducing class size in the primary grades (K to 3) and to providing funding, as defined in paragraph 8 below, to achieve that objective.
2. The term of this Memorandum of Agreement shall commence on ratification of the Collective Agreement and conclude on June 30, 2001.
3. All current class size and composition provisions in the Previous Collective Agreement shall continue to apply, with the exceptions as noted in paragraphs 4, 5 and 7 below.



4. a. In Year 1 of the Agreement, the Government will provide funding, as defined in paragraph 8 below, to accomplish maximum class sizes, to be in effect by September 30, 1998, as follows:

- Kindergarten 20
- Grade 1 25
- Grade 2 As per Previous Collective Agreement
- Grade 3 As per Previous Collective Agreement

b. In Year 2 of the Agreement, the Government will provide funding, as defined in paragraph 8 below, to accomplish maximum class sizes, to be in effect by September 30, 1999, as follows:

- Kindergarten 20
- Grade 1 23
- Grade 2 23
- Grade 3 23

c. In Year 3 of the Agreement, the Government will provide funding, as defined in paragraph 8 below, to accomplish maximum class sizes, to be in effect by September 30, 2000, as follows:

- Kindergarten 20
- Grade 1 22
- Grade 2 22
- Grade 3 22

5. Where there is more than one primary grade in any class with primary students, the class size maximum for the lower grade shall apply.

6. Any provisions found in the previous Collective Agreement(s) which would allow class size numbers to exceed those found in paragraphs 4 and 5 above and paragraph 7 below, except with respect to Grades 2 and 3 in Year 1 of this Memorandum of Agreement, shall not apply.

7. Where there is a combined primary/intermediate class, an average of a. the maximum class size of the lowest involved primary grade and b. the maximum class size of the lowest involved intermediate grade will apply.

8. Notwithstanding any of the foregoing, in no event will the financial obligations to Government or school districts resulting from this Agreement exceed the funding being made available by Government, as follows:

Year 1 (July 1, 1998 to June 30, 1999)	\$5 million
Year 2 (July 1, 1999 to June 30, 2000)	\$20 million
Year 3 (July 1, 2000 to June 30, 2001)	\$20 million

9. Districts shall utilize the funding provided in paragraph 8 above exclusively for the purposes of hiring additional enrolling K to 3 classroom teachers and will make all reasonable efforts to comply with the class size maximums set out in paragraphs 4 and 5 above.

- a. By May 15, 1998, the Ministry of education will provide to each district, in writing, an estimated funding amount that will be provided to achieve the goals of this Memorandum of Agreement, subject to all of the provisions and expectations of this Agreement.
- b. By May 30, 1998, School Districts shall provide to the Ministry with copies to the Local, in writing K-3 staffing plan(s) for each school enrolling primary grades, that sets out how the estimated funding referred to in a. above shall be utilised to staff within the class size maximums in paragraphs 4 and 5 above.
- c. In the event a District concludes it will not be able to achieve the required class size maximums with the estimated funds made available to them, the district shall, by no later than May 30 of that year, submit to the Ministry its staffing plan and state therein the reasons why, in the opinion of the district, it is not possible to achieve the class size maximums which would otherwise apply. Copies of the staffing plan shall also be provided at the same time to the corresponding local(s) of the BCTF.

Within 10 days of the submission of the report referred to above, a joint committee of no more than 3 representatives of the District and no more than 3 representatives of the Local shall meet to address whether it is possible to resolve any outstanding issues in order to achieve the class size maximums set out in this Agreement.

Where this process fails, either party, within 5 working days, may refer to the matter to Vince Ready or another mutually acceptable arbitrator for binding decision. Such decision shall be provided within 10 days of the referral.

- d. By June 15, 1998, the Ministry of Education shall communicate to School Districts, in writing, the level of funding the District will receive in Year 1 to support increased levels of staffing in the primary grades (K-3).
- e. By October 15 in each year of this Memorandum of Agreement each district shall submit a K-3 Implementation Plan, detailing the allocation of staffing and the actual K-3 class size for the district, to the Ministry, with a copy to the local.  

If there is a dispute over the October 15 K-3 Implementation Plan that is not resolved through the grievance procedure, the matter may be referred by either party for expedited arbitration. The expedited arbitration will commence no later than 28 days after the referral of the grievance for expedited arbitration. The arbitrator will be from a list of agreed upon arbitrators, as established by the parties, and will issue a decision no later than 21 days after the conclusion of the hearing.
- f. In the event that additional enrollment after September 30 makes it impossible to comply with the maximums set out in paragraphs 4, 5, and 7 within the resources made available, then in those circumstances only, the provisions of the previous Collective Agreement shall apply.

10. The process set out in Paragraph 9 will be implemented on an accelerated schedule, as determined by the Ministry of Education, for Years 2 and 3 of the Agreement.

11. Where class size or workload maximums/restrictions contained in the Previous Collective Agreement are lower than those in this Memorandum of Agreement, the maximums from the Previous Collective Agreement shall apply.
12. In the event of non-renewal of this Memorandum of Agreement on Primary Class Size (K-3), class size and composition provision(s) in the Previous Collective Agreement shall continue to apply.