

**SCHOOL DISTRICT No. 23 – BOARD COMMITTEE REPORT**

COMMITTEE: Human Resources and Staff Services DATE: January 9, 2008

CHAIRPERSON: Anna Hunt-Binkley STAFF CONTACT: R. Odlum, Director of Instruction - Human Resources

**Attendees:**

Trustee A. Hunt Binkley (Acting Chairperson)  
Trustee M. Baxter – Acting Committee Member  
Trustee S. Nicholl – Acting Committee Member

**Staff:**

R. Odlum, Director of Instruction - Human Resources  
H. Gloster, Assistant Superintendent  
R. Dumontet, District Principal  
J. McCallum, Human Resources Officer  
C. Ikesaka, Confidential Secretary (Recorder)

Absent: Trustee G. Scanlan - Committee Member  
Trustee W. Horning – Committee Member

**Partner Group Representation:**

COPAC No Representative  
COPVPA Scott Sieben  
DSC No Representative

COTA No Representative  
CUPE Bill Zeman, President

**Information Items**

**1. Policy 330 – Mandatory Retirement**

The Director of Instruction – Human Resources explained that as of January 1<sup>st</sup> with the amendment to the Human Rights Code, Mandatory Retirement was removed and the Board of Education complied with that legal order at the December Board Meeting by rescinding Policy 330. At this time there is no retirement policy for School District No. 23.

There is medical evidence that there are some work groups that could still be required to retire at age 65 because of public safety issues related to those jobs.

There may be sufficient reason that an exemption from that human rights code where there are safety issues could be granted (Pilots, Fire Fighters and Bus Drivers are the work groups often considered). To require Bus Drivers to retire at age 65 we would need to have a Bona Fide Occupational Requirement that makes it impossible or unreasonable for us to accommodate Bus Drivers over the age of 65. There is evidence that would suggest that we cannot accommodate those drivers in order to make sure that the students are safe. Should we put policy in place requiring Bus Drivers to retire at age 65, the policy may be challenged. Challenges would test two issues:

1. be imposed honestly and in good faith and in the sincerely held belief that such limitation is imposed in the interests of the adequate performance of the work involved with all reasonable dispatch, safety and economy, and not for ulterior or extraneous reasons aimed at objectives which could defeat the purpose of the Code; and
2. be related in an objective sense to the performance of the employment concerned in that it is reasonably necessary to assure the efficient and

economical performance of a job without endangering the employee, his fellow employees and the public.

In challenges, employers have provided evidence of a medical nature. The body does degenerate with age, as does the ability to perceive and make judgements. Age is not curable accommodations cannot be made with the expectation that the employee is going to get better. The process of getting older changes a person's psychological view of things and affects a driver's ability to perceive distance, hear, and make snap judgements in a negative way.

The Director of Instruction – Human Resources recommends the following wording into the policy:

1. The Board of Education recognizes age 65 as the normal retirement age for employees of the school district (“Normal Retirement Age”).
2. Employees must provide notice of retirement in accordance with the notice requirements of the applicable collective agreement or contract.
3. This policy does not prevent employees from retiring before they are 65 or prevent employees from working beyond the normal retirement age.
4. An employee who decides to work beyond the Normal Retirement Age will continue to perform the full scope of their duties and responsibilities.
5. Employees working as Bus Drivers shall retire no later than the end of the school year in which they reach 65 years of age.

If point 5 is placed into policy it is contrary to human rights code and at some point that policy may be challenged.

Trustee Nicholl asked what other district have done? The Director of Instruction – Human Resources explained that most districts have done what we have done and simply taken the policy out of their policy manual and are dealing with the issue right now.

The Director of Instruction – Human Resources stated that the BCPSEA would provide us with support in mounting the defence if required. It is a risk worth taking even if we are the only district in the province. Based on the medical report provided, we should take this action to help ensure the safety of students.

The President of C.U.P.E. asked whether we may have a duty to accommodate after the age of 65 if the bus drivers are not able to drive you may have to give them the opportunity to be custodians or secretaries.

The Director of Instruction – Human Resources suggests that what we could consider in terms of accommodations we could consider retraining and posting into other positions, or a layoff situation with bumping.

Trustee Hunt-Binkley asked if we didn't have the policy and something did happen what would be our liability.

The Assistant Superintendent stated that currently holders of commercial Class 1 or 2 Licence go through annual physicals so we have done our due diligence from the standpoint of complying with the Motor Vehicle Act - those people have qualified for Class 2 licences and can drive a bus. Canadian Pilots

Association has gone through a very public process around this issue and 60 ended up being the retirement age for pilots. They challenged it and they lost (pilots have co-pilots – bus drivers do not).

The Director of Instruction – Human Resources suggested we would increase our diligence by increasing the frequency of the medical testing and determine a better, more thorough screening process to minimize the risk.

Trustee Hunt-Binkley is concerned that BCPSEA has recommended districts pass policy such as this and then take a wait and see approach. It is her position that once the policy has passed that proactive steps be taken to obtain an exemption.

**Outcome:**

**THAT: The Human Resources and Staff Services Committee forward the DRAFT New Policy 330 – Retirement to the Board for approval.**

The Committee recommends that Bus Drivers be informed as soon as possible that this policy recommendation will be on a Board Agenda.

Next Committee Meeting Date: March 5, 2008 - 4:30 p.m. Location: School Board Office Board Room

Questions: Please Contact: Trustee Gail Scanlan Phone: (250) 764-2469