

Ministry of Education

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2013: LR1

MEMORANDUM TO:

Directors of Education
Secretary/Treasurers of School Authorities
Director of Provincial Schools Branch
Executive Directors of Trustees' Associations
General Secretary of OSSTF

FROM:

Tim Hadwen
Assistant Deputy Minister (Acting)
Education Labour Relations

DATE:

May 17, 2013

SUBJECT: OSSTF MOU – Implementation Committee – Memo 1

Further to the Memorandum of Understanding (MOU) with the Ontario Secondary School Teachers' Federation (OSSTF), I am pleased to inform you that the Implementation Committee has been meeting in accordance with its MOU mandate (see below).

This first update from the Committee deals with issues brought forward by the Parties to date. There are no changes to the MOU itself. The Committee will continue to gather requests for clarification and respond in subsequent memoranda.

A. Mandate of the Implementation Committee

The Parties agree that a committee for discussion of implementation issues will be established with the goal of encouraging consistency, equitability and fairness of implementation.

The Implementation Committee shall have school board, OSSTF/FEESO and Ministry representatives.

The Implementation Committee shall meet within 30 days of the signing of this agreement to discuss its process including frequency of meetings and topics of mutual interest. The Committee will also consider further means of addressing implementation issues including communications to the Parties and the future role of the committee, if any.

It is understood that this committee and its discussions do not affect the collective agreement and dispute resolution entitlements of any party in any way.

Where the Parties agree to an interpretation, the agreed-to interpretation will be communicated to all affected school boards and Bargaining Units and shall be implemented in accordance with the Implementation Committee instructions. Such decisions may be communicated in interpretation manuals and/or guidelines. Regulations may be made where appropriate. Further, it is understood that the agreement of the Parties on an implementation item has precedent-setting value with respect to Third-Party interpretation.

B. Agreed Interpretations - OSSTF MOU

Job Security – OSSTF/FESO Support Staff

In the Case of Declining Enrolment

In the case of a decline in board enrolment leading to a reduction of the staff complement determined as of March 5, 2013, the rate of staff layoffs cannot be greater than the rate of enrolment decline between the 2012-13 and 2013-14 school years. Attrition must be applied against layoffs to reduce such layoffs.

Example 1:

A bargaining unit was 100 FTE as of March 5, 2013. The board has an enrolment decline of 2%. The declining enrolment of 2% allows for a reduction of staff FTE of up to 2.0 FTE through layoff, but to be offset through attrition. There has been a 1.0 FTE resignation after March 5, 2013. The resignation is applied against this reduction so only 1.0 FTE staff may be laid off since layoffs must be minimized through attrition.

Example 2:

A bargaining unit was 100 FTE as of March 5, 2013. The board has an enrolment decline of 2%. The declining enrolment of 2% allows for a reduction of staff FTE of up to 2.0 FTE through layoff, but to be offset through attrition. There have been 2 resignations after March 5, 2013. The resignations are applied against possible layoffs so that no staff may be laid off.

Example 3:

A bargaining unit was 100 FTE as of March 5, 2013. The board has stable enrolment. There are 5 resignations after March 5, 2013. The board chooses not to replace those positions. This is allowable as a reduction can occur through attrition provided there are no layoffs.

Maternity Benefits

The start date for the payment of the maternity benefits shall be the earlier of the due date or the birth of the child.

Births that occur during an unpaid period (i.e. summer, March Break, etc.) shall still trigger the maternity benefits identified in the MOU. In those cases the maternity benefits shall commence on the first day after the unpaid period.

Voluntary Unpaid Leave of Absence Program (VLAP) for All OSSTF Bargaining Units

The VLAP program came into effect on May 1, 2013. Employees in all OSSTF bargaining units (all job classes) are entitled to take up to 5 days of leave without pay prior to August 31, 2013, and up to another 5 days in the 2013-14 school year.

VLAP days which are scheduled in advance of May 31, 2013, in order to provide equalized salary deductions, do not require specific date identification at the time of request. However, the number of days identified must be taken by the employee during the 2013-14 school year. Employees will identify the semester of the anticipated leave wherever possible.

Approval shall not be denied except as outlined in the MOU. As a guideline, staff absences from 15% to 20% in a school or worksite shall be seen as reasonable.

Paragraph 6 of the VLAP section of the MOU provides a complete list for all the days for which requests should not normally be made.

Approval for VLAP shall be on a first-come/first-served basis. Requests for VLAP and/or specific date identification shall be made at least two weeks in advance. Exceptions may be considered with mutual consent.

The taking of VLAP days shall not result in the loss of any holiday pay that would otherwise be paid to any employees.

Example:

If a VLAP day is taken on the Friday prior to Victoria Day then the Thursday is considered the last regularly scheduled work day.

Attendance Recognition

Upon request of the bargaining unit, the Shared Savings Initiative (SSI) payment shall be delayed to the first pay in October 2014. An alternate date may be mutually agreed between the board and the bargaining unit.

Upon request by an employee on a statutory leave at the time the SSI payment is to be made, such payment shall be delayed until such time as the employee returns from the leave.

Sick Leave/Short-term Sick Leave and Disability Plan

The 11 day/100% sick leave entitlement is for use for absence due to illness as defined in the 2008-12 collective agreements. The 120 day/90% STLDP entitlement is for use for absence due to personal illness including medical appointments.

Regardless of when a new employee begins his or her employment, the employee is eligible for the full sick leave allotment of 11 and 120 days.

Eligibility for access to the Short Term Sick Leave and Disability Plan is dependent on medical documentation submitted to the Board and its adjudication processes for access to sick leave as **they existed up to August 31, 2012**. There will be no new or expanded Third-Party adjudication processes beyond those which existed during the 2011-12 school year. A decision to deny LTD will not be a consideration for the denial (including termination) of the STLDP benefit.

The first time an employee returns to work in a school year from any leave including, but not limited to maternity leave, unpaid leave or sick leave, the employee will receive the full allotment for his/her FTE allocation of sick days. There is no pro-ration due either to the time of year of return or due to a circumstance where he/she may work fewer than regularly scheduled hours upon return.

Example:

Full-time staff receive the full allotment as a full-time staff member, even if on a graduated return to work that involves a part-time work schedule.

Short Term Leave and Disability Plan Top-Up (STDLP)

Where an employee has been absent from work due to approved leaves other than sick leave in the previous year, the STDLP shall be calculated based on attendance in the last year worked. The STDLP shall be two days for those employees whose last year worked was prior to 2012-13.

On a case-by-case basis, boards must consider the provision of compassionate leave top-up of up to two days per year upon individual request, in accordance with the MOU. For clarity, a board may not make a universal determination with regard to the provision of compassionate leave top-up.

Long-Term Assignments

Sick leave for long-term assignments must be allocated at the start of the assignment. A projected length must be identified for all long-term assignments in order for appropriate allocation of sick leave to occur. If the assignment is extended, then the additional sick leave entitlement shall be applied, including retroactive application where necessary.

The retroactive application of sick leave as it affects the short-term portion of any assignment will be subject to the terms of 2008-12 collective agreement.

Non-Vested Retirement Gratuity for Employees

Upon the request of the bargaining unit, the gratuity wind-up payment shall be delayed to the first pay in October 2013. An alternate date may be mutually agreed between the board and the bargaining unit.

Upon request by an employee on a statutory leave at the time the gratuity wind-up payment is to be made, such payment shall be delayed until such time as the employee returns from the leave.

C. Additional Clarifications

In addition to agreed to interpretations of the MOU, the Implementation Committee has agreed on interpretations of additional items.

Grid Payout

For teacher bargaining units, the grid implementation related to grid movement for qualifications and experience reflects changes earned on the 97th school day of the school year. Any movement on the grid that would have normally occurred before that date would be effective the 97th school day of the school year. Any movement on the grid that would normally occur on or after the 97th school day will occur as per the collective agreement without any postponement.

Some agreed upon methods of pay allow for salary earned over 10 months to be paid out over 12 months. In these instances, the increased salary may not be reflected until a later date. For example, the increase in pay may not occur until half way through the 12 months, i.e. March 1st even though the actual salary adjustment began on the 97th school day.

Extra degree or other allowances are not affected by any postponement period and should be paid as per the collective agreement without delay.

Early Retirement Incentive Plan (ERIP)

Requirements for notification periods for retirement or specific retirement dates other than for this ERIP remain in place.

Benefits Premiums

Status quo with regard to benefits means that the actual benefits are to remain at the same level as they were in the 2008-12 collective agreement as per the OECTA MOU. In boards where the benefits plan is owned by OSSTF, status quo maintenance will require increased board-paid premiums to offset inflationary adjustments to benefits costs where applicable.

D. Clarification as a Result of Regulation Changes

Recovery of Overpayment

Changes to Ministry communications and amendments to regulations have resulted in some overpayment situations for staff that were on sick leave and on WSIB-approved leaves at the start of the 2012-13 school year. This overpayment should not be recovered from any employees who are impacted.

E. Conclusion

If you require further information, please contact:

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Original signed by:

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On behalf of the Implementation Committee

Cc: Implementation Committee
Superintendents of Business and Finance
Superintendents of Human Resources