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2013: B11

MEMORANDUM TO: Directors of Education
Secretary/Treasurers of School Authorities

FROM: Gabriel F. Sékaly
Assistant Deputy Minister
Elementary/Secondary Business and Finance Division

Tim Hadwen
Assistant Deputy Minister (Acting)
Education Labour Relations

DATE: May 21, 2013

SUBJECT: Implications of the 2013 MOU with CUPE

On May 10, 2013, representatives of the Canadian Union of Public Employees (CUPE) reached a memorandum of understanding (MOU) with the Province that augmented the terms of the MOU signed on December 31, 2012. For further details, please refer to the 2013 CUPE MOU, which is available at <http://www.edu.gov.on.ca/eng/studentFirst.html>.

As noted in previous correspondence, the provisions of the collective agreements established under the *Putting Students First Act, 2012* and the *Education Act* continue in force over the two-year term of the labour framework.

Items contained in the 2013 CUPE MOU will be effective from September 1, 2012, except where a different effective date is specified.

As was the case with the OSSTF MOU, we are writing today to advise you of the steps, both regulatory and otherwise, that the Government is taking to facilitate the implementation of this MOU, including the modification of current collective agreements at the board level.

A. CUPE LOCAL BARGAINING

Changes contained in the 2013 CUPE MOU are to be appended to, and form part of, the collective agreements with the agreement of the local unions and their respective school boards. In particular, the following items are to be appended to, and form part of, the existing local collective agreement without amendment:

- Sick Leave/Short-Term Sick-Leave Disability Plan
- Offsetting Measures
- Specialized Job Classes
- Non-vested Retirement Gratuity for Employees
- Letter of Understanding – job Security for Support Staff – addendum.

Many of the actions described herein must be implemented by the making of regulations.

It should be noted that regulations to effect the agreement have not yet been made. The information in this memorandum is provided in the absence of such regulations.

The Minister will recommend such regulations.

While we expect that boards will be able to implement much of the MOU within their existing funding envelopes, some additional funding support may be needed. This is particularly the case with respect to the changes in the entitlement to sick leave for non-casual employees. (For funding details, see the section entitled “Sick leave/Short-term Sick Leave and Disability Plan” immediately below.)

The Ministry intends to continue to support boards through the implementation process and will be closely monitoring board progress. We again urge boards to move expeditiously to incorporate the MOU into local agreements.

B. REGULATORY AND OTHER CHANGES BASED ON THE 2013 CUPE MOU

1. Sick leave/Short-Term Sick-Leave and Disability Plan

Eligibility for sick leave /short-term leave and disability plan benefits have been extended to all employees with the exception of those defined as “casual employees” in local collective agreement or by mutual agreement of the local parties. In general, this means that all employees who are regularly scheduled for work are now eligible for the plan. We recognize that this change will have financial implications for boards. We will, therefore, be allocating as much as \$3 million provincially to school boards to help

address this pressure. Board-by-board details of this support will be provided by separate memorandum.

The MOU also confirms that CUPE members with long-term assignments for a full year and who currently have access to sick leave provided in their 2008-2012 collective agreement are entitled to 11 days of sick leave at 100% of regular salary, and 60 days of short-term leave at 90% of salary. CUPE members in long-term assignments of less than one year have the same entitlements, however, these entitlements are to be prorated based on the length of the assignment.

2. Unpaid Days and Offsetting Measures

All CUPE staff will not be required to take any unpaid days. However, CUPE members are to have access to a Voluntary Unpaid Leave of Absence Program (VLAP) for up to 5 unpaid days of unpaid leave per year. The program is to be established with an effective date of May 1, 2013. For OMERS purposes, voluntary leaves are to be reported as approved absences.

3. Specialized Job Classes

In cases where there is a particular specialized job class in which the pay rate is below the local market value assessment of that job class, the parties may use existing means under the collective agreement to adjust compensation for that job class.

4. Calculation of Non-vested Sick Days

As communicated in the memorandum of March 30, 2013: **B7 – Changes to the Requirements for the Wind-up Payments for Non-vested Retirement Gratuities**, school boards are now required to pay up to 25 cents per dollar of the employee's salary as of August 31, 2012, prorated with accumulated sick days and years of service as of August 31, 2012, with respect to non-vested retirement gratuities.

5. Job Security

The 2013 MOU is explicit that where the current collective agreement has job security provisions that are superior to those in the original MOU, the provisions in the current collective agreement prevail.

C. CLARIFICATION OF PROVISIONS IN THE CUPE MOUs

1. Maternity Leave

Boards are expected to provide 6 full weeks of maternity benefits even if some of the 6-week benefit period falls outside of the employee's paid period.

2. Top-up

Where permitted under Employment Insurance (EI) rules, CUPE employees on long-term assignment are to have access to EI bridging benefits.

The Minister will recommend a regulation to permit Workplace Safety Insurance Board (WSIB) or the long-term disability plan benefits to be topped up in those circumstances where employees are working in a Return to Work arrangement.

3. Salary Grids

Employees are eligible for salary grid movement following half of the employee's regular work year.

4. Long-term Assignments

As per CUPE's MOU, non-teaching staff on long-term assignments are eligible for sick leave benefits where such employees were eligible under the 2008-2012 local collective agreement.

5. Sick-Leave Access

Eligibility for sick-leave credits is based on the class of employee. Employees of an eligible employee class, including new employees in that employee class, are eligible for sick-leave credits under the regulation.

6. OMERS

Where employees are receiving less than 100% of salary, OMERS gives boards the option of contributing on 100% of the employee's pay, or foregoing contributions. In such cases, we would expect that school boards continue to contribute based on 100% of salary, as is their practice with respect to employees under the Ontario Teachers' Pension Plan (OTPP).

7. Miscellaneous Days

Employees are not automatically entitled to two compassionate days for top-up purposes. Granting of these days is at the discretion of the board Director of Education, with such decisions being made on a case-by-case basis.

8. Adjudication Process

Adjudication is not required in all cases. As required under the CUPE local agreement, the board performs an initial assessment. Where adequate evidence or medical documentation is provided, as may be required under the CUPE local collective agreement, the employee is to be upgraded to 90% of salary. Where no decision can be reached, the matter is then referred to third-party assessment.

9. Job Security

Reducing staff in one job classification group at the expense of increases in another classification group does not meet the intent of the MOU. To be clear, this provision is not intended to allow trade-offs between classification groups within complement where one expands and another is in decline.

D. CONCLUSION

If you require further information, please contact:

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We have every expectation that school boards will work collaboratively with their local unions in implementing the provisions of the CUPE MOU. As is the case with other MOUs, we will continue to support school boards as much as we can through this process.

Original signed by

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Tim Hadwen
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cc: Superintendents of Business and Finance
Howie Bender, Chief of Staff