

2013: B17

MEMORANDUM TO:

Directors of Education
Secretary/Treasurers of School Authorities

FROM:

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Assistant Deputy Minister
Elementary/Secondary Business and Finance Division

Tim Hadwen
Assistant Deputy Minister
Labour Relations

DATE:

July 4, 2013

SUBJECT:

Implications of the MOU with ETFO

Effective, June 23, 2013, the members of the Elementary Teachers' of Ontario (ETFO) voted in favour of the agreement in principle that was reached with the Province on June 13, 2013. With the exception of the sick-leave provisions, which are retroactive to September 1, 2012, all other provisions are effective on the dates indicated in the Memorandum of Understanding (MOU). For further details, please refer to the ETFO MOU, which can be found 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 current labour framework.

A. ETFO LOCAL BARGAINING

Provisions in the ETFO MOU are to be included in collective agreements as soon as is reasonably possible. In particular, the following items are to be appended to, and form part of, the existing local collective agreement without amendment:

- Maternity Benefits
- Sick Leave
- Sick-Leave/Short-Term Sick-Leave Disability Plan
- Long-Term Disability

- Voluntary Unpaid Leave of Absence Program for All Bargaining Units
- Unpaid Days and Offsetting Measures for Teacher Bargaining Units
- Reconciliation for Teacher Bargaining Units
- Attendance Recognition
- Specialized Job Classes
- Job Security for Support Staff
- Non-vested Retirement Gratuity for Employees
- Vested Retirement Gratuity for Employees

In addition, a period of local bargaining should occur immediately following ratification and conclude as soon as possible but no later than August 29, 2013. Local issues for discussion must be resolved in a manner that is consistent with the terms contained in the ETFO MOU, or associated regulations and legislation.

We expect that boards will largely be able to implement the MOU within their existing funding envelopes. At the same time, the Ministry does intend to support the boards through that process and will be closely monitoring the MOU's implementation.

B. IMPLEMENTATION DETAILS

1. *Maternity Leave*

Effective May 1, 2013, an employee who was previously entitled to maternity benefits under the 2008-2012 collective agreement will continue to be entitled to those benefits. In addition, maternity benefits are also available to employees hired in a term position or filling a long-term assignment, with the length of the benefit limited by the term of the assignment, and to any other full-time employee (for this purpose defined as working more than 24 hours per week). Employees on daily casual assignments are not entitled to maternity benefits.

Also effective May 1, 2013, maternity benefits for eligible employees are guaranteed at 100% of salary for a total of not less than 8 weeks. Where part, or all, of the 8 weeks falls during a period of time that is not paid (for example, summer, March break), the balance of the 8-weeks entitlement resumes after that period.

Where there are superior entitlements in the 2008-2012 collective agreement, those provisions prevail. However, a local bargaining unit could elect to alter maternity benefits to include 6 weeks at 100% plus meshing with any superior entitlements to maternity benefits contained in the 2008-2012 collective agreement. For example, where a collective agreement has 17 weeks of benefits at 90% of salary, the employee would be eligible for 6 weeks at 100% of salary and a further 11 weeks at 90% of salary.

2. *Sick- Leave/Short-term Leave and Disability Plan (STLDP)*

As of September 1, 2012, the sick-leave/short-term leave and disability plan described in the MOU is in effect for ETFO employees who were previously entitled to sick-leave benefits under their 2008-2012 collective agreement.

Each school year, an employee is to be allocated 11 days for "illness," as defined under the existing collective agreement. These 11 days may be used for days on which another person is sick or injured, if this is in keeping with the definition of "illness" in the 2008-2012 collective agreement. These sick-leave days are to be paid at 100% of regular salary and do not accumulate from year to year.

Employees in term or long-term assignments are also eligible for 11 sick-leave days at 100% of salary, with their entitlement adjusted according to the length of the assignment. Full-time employees, defined as working more than 24 hours per week, are also eligible for the 11 sick-leave days. Full-time employees working for part of the year are eligible for up to 11 sick-leave days to be paid at 100% of their regular salary, the number of days adjusted as per board policy as of August 31, 2012.

Sick-leave days are to be allocated on September 1st of each year, provided that the employee is actively at work on that day. Employees hired after that date are also entitled to a full allocation of sick-leave credits.

Where the existing terms and conditions of employment provide for leaves of absence for reasons other than personal illness, such leave is to be granted without loss of salary or deduction from sick leave. The number of personal leave days is to reflect the entitlement in the existing collective agreement to a maximum of 5 such days. These days cannot be used for sick-leave purposes and are not to accumulate from year to year.

3. Short-Term Sick Leave and Top-up

For absences in excess of 11 days, employees are entitled to up to 120 days of short-term sick leave to be paid at a rate of 90% of regular salary. These STLDP days are to be used for absences due to personal illness, which could include medical appointments, as per the collective agreement in place as of August 31, 2012.

Employees on a full-year (for that job class) long-term assignment are eligible for 60 days of short-term sick leave to be paid at 90% of regular salary. Employees on long-term assignments of less than one year are eligible for 60 days of short-term sick leave at 90% of regular salary, with the length of their sick-leave entitlement reduced based on the term of the assignment, in accordance with board policy as of August 31, 2012. Permanent part-time teachers are eligible for 120 short-term sick-leave days to be paid at 90% of their regular salary, adjusted according to their full-time equivalent status.

School boards are to determine eligibility for STLDP subject to the existing terms and conditions of employment and/or board policies, procedures, and practices in place during the 2011-12 school year.

Employees can top up their STLDP days to 100% of salary. For 2012-13, which is the transition year to the new sick-leave plan, each employee is to have 2 days in the top-up bank for use that school year. In 2013-14, the top-up bank is to consist of those sick-leave days that remain unused from the 11 days allocated for 2012-13.

In addition to the top-up bank, boards have the discretion to allow, for compassionate reasons, a top-up for special leave/miscellaneous/personal days (or equivalent term in the collective agreement). This top-up is not to exceed 2 days and is dependent on employees having 2 unused leave days in the current year.

Where the long term disability plan in the 2008-2012 collective agreement requires a waiting period in excess of 130 days, the STLDP period should be extended until the waiting period is exhausted.

4. Long-Term Disability

ETFO will become the sole policy holder for its members' long-term disability plan effective September 1, 2013. The MOU describes in detail the roles, responsibilities, and obligations for ETFO, the Ontario Teachers Insurance Plan (OTIP), school boards, and ETFO members.

5. Voluntary Unpaid Leave of Absence Program (VLAP)

A voluntary unpaid leave of absence program (VLAP) is to be in place for all ETFO bargaining units, as of June 23, 2013. Under VLAP, teachers may apply for up to 5 unpaid days for personal reasons in each year of the current collective agreement. These requests should not be denied, provided that the request meets the conditions laid out in the ETFO MOU. For pension contribution purposes, voluntary unpaid leaves are to be reported as approved leaves. Boards are to provide ETFO bargaining units with details of VLAP applications and approvals on a monthly basis, with all net savings being applied as offsetting measures for unpaid days (see immediately below).

6. Unpaid Days

All members of an ETFO teachers bargaining unit, other than occasional teachers are required to take a minimum of 1 unpaid professional development (PD) day on Friday, December 20, 2013. Offsetting measures will be permitted to reduce the number of additional unpaid days that such teachers are required to take in 2013-14. In cases where the savings from these measures exceed the amount needed to offset unpaid days, such savings will be retained by school boards.

By using offsetting measures, such as voluntary unpaid leave, ETFO teachers will no longer be required to take October 11, 2013, as an unpaid day. This PD day will be reserved for the delivery of Ministry priorities. Recognizing the importance of professional development for Ministry priorities, the Government will work with boards to re-allocate existing provincial and board PD funds to cover the first 16% of the funding needed for boards to offset the cost of a PD day. Further information on this item will be shared with boards in the coming weeks.

If the projected savings from voluntary unpaid leave and PD day efficiencies fall short of covering the cost of one of the unpaid days, an Early Retirement Incentive Plan (ERIP) should be introduced as a further offsetting measure. It should be noted that boards have the discretion of introducing an ERIP even if their offsetting measures exceed the

cost of 1 unpaid day. It should also be noted that other cost-savings measures can be introduced if agreed to by both parties.

In the event that these offsetting measures do not cover the remaining cost of the October 11th PD day, the Government agrees to make up the funding shortfall, with this support being limited to boards that have incorporated the ETFO MOU into their local collective agreements. In these cases, there will be no additional Government funding towards the cost of the March 7, 2014 PD day, and all members of an ETFO teachers' bargaining unit will be required to take that day as an unpaid day.

Where offsetting measures do cover the cost of the October 11th PD day, but do not cover the full cost of the March 7th PD day, the Government agrees to make up that funding shortfall, with this support again being limited to boards that have incorporated the ETFO into their local collective agreements.

ETFO employees who are not members of a teachers' bargaining unit are not required to take any unpaid days.

7. Reconciliation Committee

A committee is to be struck, with equal representation from the local board and the teachers' bargaining unit, to track the progress on each board's offsetting measures.

If by November 30, 2013, it appears that the net savings from offsetting measures are not sufficient to cover the cost of 1 unpaid day, an ERIP program should be implemented by the board, with the cost deducted against the savings. However, if the board believes that further offsets are, in fact, not required, the board can choose to proceed without the benefit of an ERIP. In the event that the offsetting measures do indeed fall short of the cost of the October 11th PD day, ETFO teachers will not be required to take an unpaid day on March 7th, with the cost of that day being fully borne by the board.

New reporting mechanisms are being developed by the Ministry for the committee to track the progress of the offsetting measures so that the Ministry can adjust its cash flow to boards accordingly. Details on these new reporting requirements will be provided by separate memorandum over the coming weeks.

8. Attendance Recognition

Under this Shared Savings Initiative (SSI), permanent regular day-school teachers who use less than 6 full days of sick leave in 2013-14 will be reimbursed the equivalent of 1 day's pay at the end of the school year.

ETFO members, other than members of a teacher bargaining unit, are also eligible for attendance recognition remuneration in 2013-14, provided that they have taken a full day of voluntary unpaid leave.

9. 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.

10. Job Security for Support Staff

The existing full-time equivalent complement in all ETFO support staff job classes as of March 31, 2013, will be maintained until August 31, 2014. The MOU details the circumstances under which layoffs can occur. The MOU makes it clear that, where the job security provisions in the 2008-2012 collective agreement are more advantageous to the bargaining unit than those in the MOU, the former provisions prevail.

11. Calculation of Non-vested Retirement Gratuities

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 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.

The minimum years of service for a retirement gratuity is defined as the lesser of the contractual minimal service requirement in existing terms and conditions of employment, or 10 years.

Eligible employees with less than the minimum number of years of service are to have that entitlement frozen as of August 31, 2012. These employees are entitled to a gratuity wind-up payment calculated as the lesser of the board's existing amount calculated under the existing terms and conditions of employment as of August 31, 2012 (or board policy as of that date) or the following formula:

$$\frac{X}{30} \times \frac{Y}{200} \times Z = \text{Gratuity Wind-Up Payment}$$

- X = years of service (as of August 31, 2012)
- Y = accumulated sick days (as of August 31, 2012)
- Z = annual salary (as of August 31, 2012)

Note that X, Y, and Z are to be as defined as per the terms and conditions of employment, or, as per policy or practice of the board for retirement gratuity purposes that were in effect on August 31, 2012. The gratuity wind-up payment is to be paid to each employee by the end of the school year. If there is a dispute between an employee and a board about the amount that the employee is eligible to receive, and the dispute has not been resolved by June 30, 2013, the employee’s eligibility to receive the amount for gratuity wind-up by June 30, 2013 shall not apply, and instead, the

employee shall be eligible to receive that amount as soon as is reasonably possible after the dispute has been resolved.

The pay-out for those who have vested retirement gratuities shall continue to be as set out in Ontario Regulation 2/13, as amended, made under the *Putting Students First Act*, 2012 and Ontario Regulation 1/13, as amended, made under the *Education Act*.

12. Implementation Committee

An implementation committee, with representatives from ETFO, school boards, and the Ministry is to be established as soon as possible. Where the parties agree to a particular interpretation of an issue, the information should be communicated to all affected parties and should be implemented according to the committee's instructions. It should be noted that the work of the committee does not affect dispute resolution entitlements currently in place.

13. ETFO Salary Differential

The Government has agreed to eliminate the salary differential between ETFO and non-ETFO teachers as reflected in the difference in applicable benchmarks in the Grants for Student Needs (GSN) found in the Addendum to the *Technical Paper 2013-14* and in the supporting GSN regulations. These changes, which will also result in revisions to the corresponding salary grids, will be effective September 1, 2014.

14. Workload Study

The Government has agreed to support a study of current and planned educational initiatives and student assessment at the provincial and school board level to focus such initiatives and assessments on student achievement, teacher workload, and teacher professionalism. The study's report is to be completed by December 31, 2013. It is agreed that ETFO and English-language public district school boards will be directly involved in consultations on the scope, content, and implementation of the research.

15. Regulation 274 Hiring Practices

A committee is to be struck with representatives from ETFO, English-language public district school boards, and the Ministry, to review Ontario Regulation 274/12 Hiring Practices.

C. CONCLUSION

If you require further information, please contact:

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We are looking to school boards to work collaboratively with their local unions to implement the provisions of the ETFO MOU. We continue to work with school boards and their representatives on the supports that are needed to help school boards through this challenging process.

Original signed by

*Original signed by Michael Villeneuve
for*

Gabriel F. Sékaly
Assistant Deputy Minister

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