

BRITISH COLUMBIA
LABOUR RELATIONS BOARD
MEDIATION DIVISION

September 3, 2008

St. Margaret's School
1080 Lucas Avenue
Victoria BC
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ATTENTION: Mary Soles
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Professional Employees' Association
201 - 1001 Wharf Street
Victoria BC
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ATTENTION: Ernie Gorrie
(Fax: (250) 385-6629)

Dear Sirs/Mesdames:

Re: Clarifications of Recommendations Dated August 25, 2008
Case No. 57755/08 - Section 74

As a result of various emails and a conference call between Ernie Gorrie of Professional Employees' Association, Mary Soles of St. Margaret's School and myself on September 2, 2008, I am issuing these written clarifications. These clarifications are in keeping with my retained jurisdiction as contemplated in recommendations issued to the parties and dated August 25, 2008.

1. Both parties seek clarification on the intent of my recommendations concerning the Employer's ability to appoint individuals without the benefit of postings to temporary positions of less than three months.

As the parties are aware, the recommendations provide for the application of seniority for auxiliary employees. The purposes for this application are set out in Article 8.01. If as the Employer suggests, the Employer retains the unfettered right to make an appointment of less than three months without the benefit of posting and/or the application of seniority as contemplated by Article 8.01 and related call-in articles, then the recommendations to provide for seniority based call out would be effectively rendered meaningless.

The Union has acknowledged that where the Employer wishes to create a temporary position of less than three months they may do so through the posting process. Additionally, there is provision in the recommendations to consider implementation issues in the trial period. I retain jurisdiction to deal with such issues. I had envisioned that where potential concerns regarding continuity etc., seniority is applied on a strict day by day basis, the parties would discuss and resolve principles related to same.

Finally, the matter of compensation for individuals working in on-call positions is the subject of a grievance coming before me under item #19 of the recommendations.

2. The Union seeks clarification as to whether the Employer has the right to assign extra-curricular work pursuant to Article 10.04(h) (iii).

As was discussed during the mediation, it would not add to the value of extracurricular opportunity if a teacher was forced to teach an activity where they were not capable or where they did not have an interest. Consequently, the Employer retained the right to determine how such work would be allocated. The example of rowing was used. Where no one with rowing expertise came forward, the Employer would recruit an outside rowing coach, but the coach would be accompanied by an SMS representative. To further illustrate this principle, employees have the right to drop any extra curricular activity with 30 days notice. Reference 10.04(h) (viii)

3. The Union seeks clarification whether Article 10.06 contains conflicting language concerning the qualification test. The Union asserts reference in (a) (i)-(iv) is a threshold test which conflicts with the second sentence which sets out a competitive test.

Inasmuch as teachers all fall within the same classification, ie: teachers, I envisioned the competitive test being applied in those circumstances where a question arose as to whether the teacher was qualified to teach in a particular subject area. For example, if a senior teacher had not previously taught science, and auxiliary hours which required the instruction of science became available, it would make sense that such individual was less qualified than a more junior individual who taught science.

4. The parties also asked for clarification on various housekeeping issues. Accordingly, I am issuing the following housekeeping amendments to the August 25th recommendations.

P-10 Article 9.07 (c): Add the following sentence "Where the assignment no longer exists, she shall return to a comparable position.

P-14 Article 10.04 (g) (v): Department Heads: Amend 2 hours to read 2.5 hours

P-15 Article 10.04 (h) (i): Delete the reference to equivalencies and insert the term "extra curricular activity (s)"

P-16 Article 10.04 (h) (vii) Commencing with the word "Staff": Replace numbering to read 10.04 (h) (viii)

P- 16 Article 10.06 (a) (i): Insert the word "in" between the words classification and the word order.

P-18 Article 13.08

Fourth bullet: Delete the second word (used) and insert the word unused.

Last bullet: Add the words "For the transition years 2009/2010
...employees with accrued

P-18 Schedule B Stipends: Delete the word equivalency and insert the term
"curricular work time"

Based on the foregoing clarifications, I request that the parties determine their recommendation for acceptance or rejection of these collective bargaining recommendations and conduct a vote of their respective constituents.

Yours truly,

LABOUR RELATIONS BOARD

A handwritten signature in black ink, appearing to read "Debbie Cameron", written over the typed name and title.

Debbie Cameron
Mediator

DC/dl