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Ontario

October 1, 2013

Marshall Jarvis
General Secretary
Ontario English Catholic Teachers' Association (OECTA)
65 St. Clair Avenue East, Suite 400
Toronto, ON M4T 2Y8

Dear Mr. Jarvis,

Thank you for your letter of September 5, 2013. We look forward to continuing discussions with the Ontario English Catholic Teachers' Association as we complete the 2012-2014 labour framework and commence putting a new statutory framework in place for the next round of collective bargaining negotiations.

In your letter you asked whether the Ministry agrees that the terms and conditions of the 2012-2014 OECTA collective agreements, including the terms of the 2012 OECTA MOU, as modified by regulation, and the 2013 MOU Update remain in force beyond August 31, 2014 until a new collective agreement has been ratified or the conditions under section 79 of the *Ontario Labour Relations Act, 1995 (OLRA)* have been met.

I can confirm the Ministry does agree that the terms of the 2012-2014 collective agreements will be subject to the "statutory freeze" provisions set out in the *OLRA* and that, as a result of the *Putting Students First Act, 2012* those terms include the 2012 OECTA MOU as modified by regulation. Those terms also include the changes set out in the 2013 OECTA MOU Update by virtue of the appending of those changes to form part of the 2012-2014 agreements.

You also asked what the ministry would do should the school boards take a different position at the outset of bargaining. The Ministry intends to work in concert with school boards to ensure that the parties are ready to engage in a productive round of negotiations based on a shared understanding of how the collective bargaining framework set out in the *OLRA* applies.

Once again, thank you for your letter, and I wish to reiterate the Ministry's commitment to respectful and productive dialogue with OECTA as we move forward.

Sincerely,

George Zegarac

George Zegarac
Deputy Minister

cc Ontario Catholic School Trustees' Association

Attached is a copy of the 2012-2014 collective agreement which has been filed by the Association in accordance with Section 90 of the Ontario Labour Relations Act. These documents form and are part of the 2012-2014 collective agreement.

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and,

without limiting paragraph N of the July 5, 2012 Memorandum of understanding the following local interim agreements/memoranda of settlement / grievance resolutions that were made between 2008 and now are included for ease of reference

Secondary Teachers' Collective Agreement

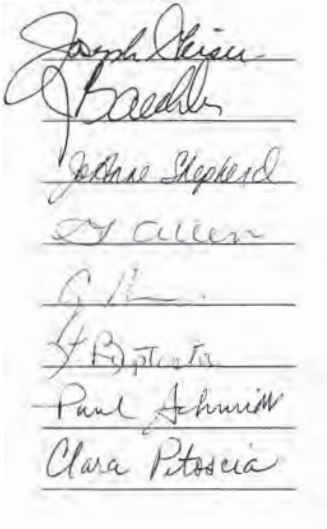
September 1, 2008
August 31, 2012

THE DUFFERIN-PEEL CATHOLIC DISTRICT SCHOOL BOARD

DUFFERIN-PEEL CATHOLIC DISTRICT SCHOOL BOARD

IN WITNESS WHEREOF the Board and the Secondary Teachers have caused the attached Agreement to be signed in their respective names by their duly authorized representatives as of this 22nd day of September 2008.

FOR THE BOARD:



FOR THE UNION:

This Agreement was ratified by the Board on September 23, 2008
This Agreement was ratified by the Teachers on September 29, 2008

ELECTED REPRESENTATIVES OF THE BOARD

Chair	**Bruno Iannicca**	
Vice Chair	**Anna Abbruscato**	
Trustees	**J. Anderson**	**E. O'Toole**
	T. da Silva	**M. Pascucci**
	L. del Rosario	**T. Thomas**
	F. Di Cosola	**L. Zanella**
	S. Hobin	

ELECTED REPRESENTATIVES OF THE DUFFERIN-PEEL SECONDARY UNIT

President	**G. Marcon**
Past President	**K. O'Dwyer**
1st Vice President	**B. McCloskey**
2nd Vice President	**J. Hynan**
Treasurer	**C. Laforet**
Recording Secretary	**A. Hawkins**
Councillors	**B. Heimbecker**
	M. De Berardinis
	R. Dollimore
	P. MacDonald
	S. Nesbeth

ADMINISTRATION

Director of the Board and Secretary of the Board	**J. Kostoff**
Associate Director and CFO	**J. Hrajnik**
Associate Director, Instructional Services	**R. Borrelli**
Superintendent of Planning and Operations	**J. Melito**
Superintendent of Employee Relations	**J. Geiser**
Superintendent of Human Resources	**P. McMorrow**
Superintendent of Financial Services	**G. Robinson**
Superintendent of Program	**M. Mazzorato**
Superintendent of Special Education and Support Services	**S. McWatters**
Superintendent of Schools:	**L. Kazimowicz**
	E. McGuire
	N. Milanetti
	G. Prajza
	M. Prospero
	C. Saytar
	A. Tucciarone

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AGREEMENT BETWEEN

DUFFERIN-PEEL CATHOLIC DISTRICT SCHOOL BOARD

(hereinafter called "the Board")

- AND –

THE ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

(O.E.C.T.A.)

REPRESENTING THE SECONDARY SCHOOL TEACHERS EMPLOYED BY THE BOARD

(hereinafter called "the Dufferin-Peel Secondary Unit")

PREAMBLE

WHEREAS it is the common goal of the Board and the Dufferin-Peel Secondary Unit to provide the best possible Catholic education for the children of this community;

AND WHEREAS to achieve that goal it is essential that the Board and its Teachers maintain the harmonious relationship which exists between them;

AND WHEREAS it is essential that to achieve that goal, the Board and Teachers undertake their respective responsibilities in this task;

AND IN ACCORDANCE WITH the terms of the Provincial Discussion Table (PDT agreement) dated May 1, 2008 for the 2008-2012 collective agreement, the Dufferin-Peel Catholic District School Board and the Dufferin-Peel Secondary Unit of

the Ontario English Catholic Teachers' Association are committed to improve student achievement, reduce gaps in student outcomes and increase confidence in publicly funded education. The parties recognize there are a variety of ways to obtain these outcomes. The parties agree that this preamble shall not be used in the interpretation of any articles set forth in this collective agreement.

IT IS THE DESIRE OF THE BOARD AND ITS TEACHERS, with due regard for recognition of qualifications, experience and responsibilities to meet established needs of the Board and to set forth the salaries, allowances, and certain other conditions of employment, as agreed herewith.

ARTICLE 1 – RECOGNITION

1.010 The Board recognizes the Ontario English Catholic Teachers' Association as the exclusive bargaining agent for the Dufferin-Peel Secondary Unit consisting of every Part X.1 teacher, as defined in the Education Act, other than occasional teachers, who is assigned to one (1) or more secondary schools or to perform duties in respect of such schools all or most of the time.

1.020 The terms of this Agreement shall apply to all Teachers, as defined in Article 1.010, while in the employ of this Board, unless specifically stated otherwise.

1.022 For the purposes of contract interpretation:

(a) Schools organized on a Grade 9 – Grade 12 basis, or part thereof, shall be referred to as "Secondary **Schools**"

(b) Students **registered** in Grade 9 – Grade 12 (**or registered in any other program at a secondary school**) shall be referred to as "Secondary Students".

1.025 "Position of Responsibility" shall mean Department Head, Co-ordinator or Consultant.

1.026 An Itinerant Teacher is a Teacher who is required to teach in two (2) or more **locations** on the same day. An Itinerant Teacher who teaches in two (2) or more **locations** on alternate days is not to be considered an Itinerant Teacher for the purposes of contract interpretation.

1.027 A probationary period shall be a period of two (2) years where the Teacher has less than three (3) years of experience as a Teacher in Ontario and one (1) year where the Teacher has at least three (3) years of experience as a Teacher in Ontario.

1.030 The Teachers recognize and accept that it is the sole and exclusive right and obligation of the Board to manage the

affairs of the Board and to determine educational policies.

1.030A Without prejudice to the Board's rights under Article 1.030, it is agreed that:

(i) the Board has the right to make, change and enforce reasonable rules and regulations; and

(ii) the Board has the right and obligation to implement all other aspects of the Board's jurisdiction as outlined in the legislation and regulations pertaining to education in the Province of Ontario.

1.030 B The Board agrees that the provisions of this Article do not preclude representation and consultation by the Board and the Dufferin-Peel Secondary Unit concerning any matter.

1.031 This Agreement is subject to the provisions of the Ontario Labour Relations Act and the Education Act.

1.032 The provisions contained herein shall not be construed as to prejudicially affect the rights and privileges with respect to the employment of Teachers enjoyed by Roman Catholic and Protestant Separate School Boards under the Constitution Act, 1867.

1.033 No Teacher shall be disciplined, demoted or discharged without just cause.

1.034 Where a recommendation is made to the Board of Trustees for the termination of a probationary Teacher, the Board shall advise the Teacher of the recommendation in writing and the reason(s) therefore, and shall give such Teacher an opportunity to respond before the Board of Trustees makes its decision upon the recommendation.

1.035 (a) The Board and the Dufferin-Peel Secondary Unit recognize that each has a right to claim and enforce their

rights under this Agreement without harassment from the other for so doing.

(b) A Teacher who is requested to attend a meeting at which the Board intends to impose formal discipline by way of reprimand, suspension or demotion, **shall be apprised of their right to the presence and assistance of a representative of the Dufferin-Peel Secondary Unit. A Teacher's decision not to have OECTA representation** at any such meeting shall not invalidate any discipline that may be imposed.

(c) **In any meeting requested by the Board to address an allegation of misconduct made against a Teacher, the nature of the allegation shall be disclosed to the Teacher, prior to the meeting.**

1.036 (a) On each pay date on which a Teacher is paid, the Board shall deduct from each Teacher the O.E.C.T.A. fee and any levy chargeable by the Dufferin-Peel Secondary Unit. The respective amounts shall be determined by O.E.C.T.A. and the Dufferin-Peel Secondary Unit in accordance with their respective constitutions and by-laws.

(b) Prior to August 15 of the school year in which the payroll deductions are to be made, O.E.C.T.A. and the Dufferin-Peel Secondary Unit shall inform the Board of the amounts to be deducted. The respective amounts to be deducted shall not be altered during the school year in which the deductions are made.

(c) The O.E.C.T.A. fee deducted in 1.036 (a) shall be remitted to the General Secretary of O.E.C.T.A. on or before the 15th day of the month following the date on which the deductions were made.

(d) The Dufferin-Peel Secondary Unit levy, if any, shall be remitted to the Treasurer of the Dufferin-Peel Secondary Unit on or before the 15th day of the month following the date on which the deductions were made.

(e) O.E.C.T.A. and/or the Dufferin-Peel Secondary Unit, as the case may be, agree to indemnify and save harmless the Board from any and all consequences of deducting and remitting the fee or levy in accordance with 1.036 (a), 1.036 (b), 1.036 (c) and 1.036 (d).

1.037 The Board is committed to the hiring of qualified and certified Teachers. To that end the Board shall include the following procedures to fill the available teaching positions;

- reference the existing pool of resumes on file,
- advertised teaching positions will include school, grade(s), subject(s) and approved ministry course code(s),
- a copy of the first advertisement will be forwarded to the Unit,
- whenever possible, individuals with letters of permission will be replaced with qualified and certified Teachers for the second semester, and,
- provide and update at each SSAC meeting the school, subject and dates of duration of letters of permission **(LOP) and temporary letters of approval (TLA)**.

ARTICLE 2 – DURATION AND RENEWAL

2.010 This Agreement shall have effect from September 1, 2008, up to and including August 31, 2012, and from year to year, thereafter unless either party gives to the other party notice, in writing, within the one hundred and fifty (150) day period before its termination, that it desires to negotiate with a view to the renewal of this Agreement with or without modification.

[This replaces the September 1, **2004** to August 31, **2008** Agreement]

2.020 The Parties shall meet within fifteen (15) calendar days from the giving of the notice, or within such further period as the parties agree upon, and they shall bargain in good faith and make every reasonable effort to make or renew a collective agreement.

2.030 The Board shall make available to the executive of the Dufferin-Peel Secondary Unit, the qualifications, experience, benefits received, scattergrams indicating the manner of calculation, and salary of each Secondary School Teacher employed by the Board on October 31st of the school year.

This information will be made available by November 15th of the school year.

These are the figures that shall be used for all calculations for costing purposes of the next Collective Agreement. Any and all enquiries by the Dufferin-Peel Secondary Unit or designate regarding the provision of the information referred to in this section shall be directed to the Superintendent of Employee Relations.

ARTICLE 3 – CONDITIONS OF EMPLOYMENT

3.010 **Evidence of Health**

The Teacher, upon request, shall submit medical evidence of freedom from communicable disease. Any such evidence shall be held in strict confidence, and shall not be released to any employee of the Board except on a 'need-to-know" basis. The information will also be kept confidential from third parties, in accordance with the Municipal Freedom of Information and Protection of Privacy Act.

3.020 **Documentary Proof**

Subject to S262(1) of the Education Act it is understood

that no person shall be employed in a secondary school to teach or to perform any duty for which membership in the College is required under this Act, unless the person is a member of the College of Teachers. Proof of qualifications and experience must be submitted to the Board. The onus is on the Teacher to see that the necessary documents are forwarded to the Supervisory Officer of the Human Resources Department at the Board Office prior to the commencement of employment.

Failure to submit the necessary documents may result in a Teacher being placed at the minimum of Level 4 (in the case of a Teacher holding a university degree) until such time as the documents are forwarded to the Board Office. Provided that proof of qualifications and experience is submitted within the same school year or calendar year of the date of commencing employment with the Board ("the commencement date"), whichever is longer, the Teacher shall receive any salary adjustment retroactive to the commencement date; otherwise any salary adjustment shall become effective when proof of qualifications and experience is submitted to the Board. In extenuating circumstances, and at its discretion, the Board may extend the period referred to above.

3.030 **Dental Plan**

Newly-hired Teachers shall join the Dental Plan selected by the Board if they are eligible as defined by the Plan.

3.031 Notwithstanding Section 3.030, no Teacher shall be required to join the Dental Plan selected by the Board if he/she is able to obtain dental plan coverage equal to or greater than the Board Dental Plan.

3.040 **Long Term Disability Plan**

All present and newly-hired Teachers shall belong to the Long Term Disability Plan if they are eligible as defined by the Plan.

3.041 Employees absent for seventy-five (75) continuous working days due to disability shall apply for LTD benefits. If eligible, they shall receive benefits under the Plan. The Board shall pay 100% of the cost for the LTD Plan.

3.050 (a) It is understood that all new Teachers are required to gain credit in Religious Education Part 1, offered by O.E.C.T.A/O.C.S.T.A.,during their probationary period as a condition of gaining permanent status with the Board, unless equivalence is granted by O.E.C.T.A. or an exemption is granted by the Director.

(b) The Board will put on, in-house at no cost to Teachers, the O.E.C.T.A. or O.C.S.T.A. Religious Education Course Part 1.

(c) Notwithstanding paragraph (a) above, a Teacher who is hired after the deadline for acceptance into the Religious Education Course Part 1 shall be granted a one (1) year extension to gain the required credit.

3.060 Every Teacher who is eligible to be a separate school supporter as provided in the Education Act shall become and remain a separate school supporter during the course of the Teacher's employment by the Board unless

(i) the Board or the separate school Board to whose schools the Teacher would otherwise send that Teacher's child or children does not provide a program or specialized assistance required or advisable for such child or children, and

(ii) such required or advisable program or specialized assistance is provided by the public school Board in the municipality in which the Teacher resides and would be available to such child or children.

In extenuating circumstances, the Director of Education may, at his/her discretion, exempt a Teacher from the above provision.

ARTICLE 4 – PLACEMENT

4.001 a) All previous qualified teaching experience to the maximum for category placement on the Teachers' salary grid will be credited. The increments lost during the Social Contract will be reinstated according to the following schedule: the experience gained during the 1995-96 school year will be recognized effective September 1, 1996; the experience gained during the 1993-94 school year and experience gained during the 1994-95 school year will be recognized effective January 1, 1997.

b) "Qualified teaching experience" shall mean experience obtained subsequent to the completion of professional training deemed satisfactory to the standards established by the Ontario Ministry of Education and includes:

(i) full-time or part-time experience gained as a Teacher under contract with a Board in Ontario or elsewhere;

(ii) experience gained while on occasional teaching assignments with a Board in Ontario or elsewhere;

(iii) experience gained as a Teacher in an accredited university or community college; but excluding experience gained through teaching in evening or summer school programs;

(iv) a Teacher, who before commencing his/her employment with the Board, has met the criteria for certification by the Ontario College of Teachers, is entitled to an adjustment in salary as of his/her commencement date, upon receipt of certification from the College of Teachers, within the same school year or calendar year whichever is longer. In extenuating circumstances, the Board may extend this period as necessary.

c) For the purpose of determining "years" of experience, a

year shall mean the ten (10) month period from September 1 of a school year to June 30 of the immediately following year, both dates inclusive. Notwithstanding the preceding sentence, if a Teacher has worked for a period of five (5) months or more but less than ten (10) months as of September 1 (hereinafter called a "short year") during the term of this agreement, such period shall be deemed for the purposes of experience to be a full year of experience.

d) For the purposes of this calculation, a month shall be understood to equal twenty (20) teaching days.

e) Any months of experience completed in excess of the minimum short year shall be combined with the short year to form a year of experience before being credited to any additional year.

f) If a Teacher is employed to teach for less than 100% time classification or less than a full school year, then the amount of experience accrued by such Teacher shall be prorated in accordance with that percentage time classification or percentage of the full school year that such Teacher was employed to teach.

g) Each semester will be of equal length.

4.002 For the purpose of determining years of teaching experience, related experience credits shall be given according to the following criteria:

(i) Related experience shall mean experience in a trade or business related to the subject which a Teacher is teaching in a Secondary School, if such experience is required to qualify for admission to a Faculty of Education. Only business or trade experience in excess of that required for admission to a Faculty of Education shall be used in the calculation.

(ii) Credit shall be given for related experience up to ten (10)

years at a ratio of one (1) year's credit for one (1) year of experience. The maximum number of years to be credited for the purpose of placement on the Teacher salary grid will be ten (10).

(iii) For the purposes of calculation:
One half (1/2) or more years = one (1) year
Less that one half (1/2) year = zero (0) year

4.003 Notwithstanding Article 4.001 (b) (iii), a Teacher shall be given credit for experience gained in an Ontario Community College as an instructor of technological studies if the Teacher is teaching a subject in the area of technological studies with the Board.

4.010 "Accredited University" means a University offering an acceptable University Degree as defined in Ontario Regulation 297, R.R.O. 1990, as amended.

4.011 The placement of Teachers shall be determined in accordance with the Teacher's Qualifications Evaluations Program 5 (hereinafter referred to as "Q.E.C.O. 5"). No Teacher who was evaluated correctly for placement purposes under the processes of evaluation in effect prior to the introduction of Q.E.C.O. 5 shall have his/her placement reduced because of Q.E.C.O. 5.

4.012 Ontario Certificates only are included in the definition of levels.

4.014 Any degree recognized by the Ministry of Education for admission to the Ontario College of Education is the equivalent of a B.A. Degree. The onus will be on the Teacher to provide the Board with the Ministry of Education's approval that it is equivalent.

4.015 Fractions of a year shall be added together, the resulting number of months divided by ten (10) will be considered as year of experience; remaining months over five to count as one (1) year. All calculations to be made as of

September 1st.

4.016 Two (2) years pre-Teachers' College experience with Temporary Elementary Certificate shall be calculated as one (1) year.

4.017 Except as specifically provided for in the terms of this Agreement, the annualized salary rate of each Teacher shall be determined in accordance with Article 5 (Salary – Grids and Allowances)

4.018 **A Teacher, who before the beginning of the school year, has met all the conditions required for a certificate of a higher level, is entitled to an adjustment in salary as of the school term commencing either September 1st or January 1st, provided that the following conditions are met:**

a) To qualify for a September 1st adjustment, the Teacher must have completed course requirements prior to September 1st and must submit to the Human Resources Department, by December 31st of that year, a revised Q.E.C.O. evaluation or Q.E.C.O. acknowledgement card.

b) To qualify for a January 1st adjustment, the Teacher must have completed course requirements prior to January 1st and must submit to the Human Resources Department by April 30th of that year, a revised Q.E.C.O. evaluation or Q.E.C.O. acknowledgement card.

The Board has the discretion to extend the deadline in extenuating circumstances, caused by the Q.E.C.O. procedures, where the Teacher has provided the Board with evidence that Q.E.C.O. has received the relevant information prior to **December 31st for a September 1st adjustment and prior to April 30th for a January 1st adjustment.**

4.019 The Board reserves the right to withhold a part or all of the increment if a Teacher's services are unsatisfactory in the judgement of the Director of Education.

4.020 Where the annual increment of a Teacher has been withheld by the Board because of alleged inefficiency, and where subsequently the Board decided to retain the services of the Teacher because of an improvement in work, an upward adjustment approved under these circumstances, would reinstate the Teacher at the year of experience he/she would have, had the increment not been withheld. (No retroactive pay is intended).

4.021 **Method of Payment**

1. Documentation
   All newly-hired employees must be fully documented prior to commencement of work.
2. Annual Salary
   Annual salary shall be as determined by this collective salary agreement.
3. Part Time/Temporary Employees
   Annual salaries will be pro-rated to cover time worked.
4. **Payment**
   All Payments shall be deposited electronically at the financial institution of the employee's choice.
   Effective September 1, 2009
   Payment information shall be maintained in the Employee Portal which can be printed by the employee. However, upon written request by the employee on an annual basis, the Board shall provide to the employee a written copy of the payment information maintained in the Employee Portal.
5. Payment Basis
   Payment shall be made on the basis of the following schedule:

2008-2009 BI-WEEKLY PAY SCHEDULE

Pay Days		Portion of Annual Salary
September	4, 2008	1/26
	18	1/26
October	2	1/26
	16	1/26
	30	1/26
November	13	1/26
	27	1/26
December	11	2/26
	24*	1/26
January	8, 2009	1/26
	22	1/26
February	5	1/26
	19	1/26
March	5	1/26
	19	1/26
April	2	1/26
	16	1/26
	30	1/26
May	14	1/26
	28	1/26
June	11	1/26
	25	4/26

*The pay stubs for the **December 24, 2008** pay date will be in the schools on **December 19, 2008**.

Effective September 1, 2009
Employees shall be paid bi-weekly by direct deposit, on Thursdays, based on 1/26 of the annual salary.

ARTICLE 5 - SALARY GRIDS AND ALLOWANCES

5.010

Teachers' Salary Grid for **September 1, 2008**

YRS EXP	LEVEL 3	LEVEL4 A1	LEVEL 5 A2	LEVEL 6 A3	LEVEL 7 A4
0	36952	41429	43784	49224	52056
1	39562	44098	46521	52056	54870
2	42262	46948	49224	54870	57686
3	45041	49746	52056	57686	60462
4	47872	52482	54870	60462	63294
5	50649	55276	57686	63294	66439
6	53429	58128	60462	66128	69585
7	56201	60813	63294	68921	72727
8	59035	63666	66128	71660	75871
9	60691	66476	68921	74384	79014
10	63279	70312	72739	77121	82159
11				81058	86584

Certified Teachers not eligible for Level 3 shall be paid $42,262.

Teachers' Salary Grid for **September 1, 2009**

YRS EXP	LEVEL 3	LEVEL4 A1	LEVEL 5 A2	LEVEL 6 A3	LEVEL 7 A4
0	38061	42672	45098	50701	53618
1	40749	45421	47917	53618	56516
2	43530	48356	50701	56516	59417
3	46392	51238	53618	59417	62276
4	49308	54056	56516	62276	65193
5	52168	56934	59417	65193	68432
6	55032	59872	62276	68112	71673
7	57887	62637	65193	70989	74909
8	60806	65576	68112	73810	78147
9	62512	68470	70989	76616	81384
10	65177	72421	74921	79435	84624
11				83490	89182

Certified Teachers not eligible for Level 3 shall be paid $43,530.

Teachers' Salary Grid for **September 1, 2010**

YRS EXP	LEVEL 3	LEVEL4 A1	LEVEL 5 A2	LEVEL 6 A3	LEVEL 7 A4
0	39203	43952	46451	52222	55227
1	41971	46784	49355	55227	58211
2	44836	49807	52222	58211	61200
3	47784	52775	55227	61200	64144
4	50787	55678	58211	64144	67149
5	53733	58642	61200	67149	70485
6	56683	61668	64144	70155	73823
7	59624	64516	67149	73119	77156
8	62630	67543	70155	76024	80491
9	64387	70524	73119	78914	83826
10	67132	74594	77169	81818	87163
11				85995	91857

Certified Teachers not eligible for Level 3 shall be paid $44,836.

Teachers' Salary Grid for **September 1, 2011**

YRS EXP	LEVEL 3	LEVEL4 A1	LEVEL 5 A2	LEVEL 6 A3	LEVEL 7 A4
0	40379	45271	47845	53789	56884
1	43230	48188	50836	56884	59957
2	46181	51301	53789	59957	63036
3	49218	54358	56884	63036	66068
4	52311	57348	59957	66068	69163
5	55345	60401	63036	69163	72600
6	58383	63518	66068	72260	76038
7	61413	66451	69163	75313	79471
8	64509	69569	72260	78305	82906
9	66319	72640	75313	81281	86341
10	69146	76832	79484	84273	89778
11				88575	94613

Certified Teachers not eligible for Level 3 shall be paid $46,181.

5.040

Consulting Staff Responsibility Allowance: Effective September 1, 2008	
Co-ordinator	$8,638
Consultant	5,739
Department Head	5,830
Post Graduate	811

Consulting Staff Responsibility Allowance: Effective September 1, 2009	
Co-ordinator	$8,897
Consultant	5,911
Department Head	6,005
Post Graduate	835

Consulting Staff Responsibility Allowance: Effective September 1, 2010	
Co-ordinator	$9,164
Consultant	6,088
Department Head	6,185
Post Graduate	860

Consulting Staff Responsibility Allowance: Effective September 1, 2011	
Co-ordinator	$9,439
Consultant	6,271
Department Head	6,371
Post Graduate	886

5.041 **Temporary Administrative Replacement**
A Temporary Administrative Replacement (see Appendix "E") shall be paid an allowance of $285.00 (September 1, 2008); $294.00 (September 1, 2009); $303 (September 1, 2010); $303 (September 1, 2011) on an annual basis.

5.050 A Teacher in full-time employment with this Board assigned responsibility as a Consultant on a part-time basis shall receive a portion of the responsibility allowance for a consultant calculated as follows:

Percentage of time worked as a consultant	X	Responsibility allowance for a consultant

5.051 (a) A Teacher appointed or transferred by the Director to a position of responsibility in an acting capacity shall receive the responsibility allowance (or pro-rated share thereof reflecting the term of the assignment) and any release time or perquisites (or pro-rated share thereof) assigned to the position.

(b) A Teacher who has been assigned to a position of responsibility in an acting capacity pursuant to subsection 5.051 (a) shall, on completion of that assignment, subject to the in-school surplus and redundancy provisions of this Agreement, return to the position he/she held prior to such assignment.

5.060 Teachers holding post-graduate degrees shall be paid an allowance of $811 (Sept. 1, 2008); $835 (Sept. 1, 2009); $860 (Sept. 1, 2010); $886 (Sept. 1, 2011) for each post-graduate degree provided the degree or any part thereof is not used in the Teacher's Q.E.C.O. 5 rating.

5.070 Special Education, Instrumental Music, English as a Second Language

A Teacher presently being paid a special allowance in the

above noted areas as per the collective agreement of September 1, 1978 to August 31, 1979, will continue to receive this allowance only if the Teacher remains teaching without interruption in the Teacher's special area. A new or presently employed Teacher who enters teaching in one of those specialized areas will not be paid a special allowance.

5.080 Teachers on permanent supply (Supernumeraries) shall be paid their salaries according to their level and experience.

5.090 Where Teachers are required to travel in the performance of their duties, they shall be reimbursed at the **Ministry of Education Base Rate for Southern Ontario.**

5.093 If the Board establishes a position of responsibility not covered by this Agreement, the Dufferin-Peel Secondary Unit shall be notified in writing within five (5) days of the filling thereof of the allowance and release time, if any, established for such position; and the Board shall negotiate promptly such allowance and release time with the Dufferin-Peel Secondary Unit. Any change in the allowance agreed to by the parties as a result of such negotiations shall be retroactive to the date of the filling of such position of responsibility.

ARTICLE 6 – BENEFITS

6.010 **Board Contribution to Benefit Plans**

(a) Subject to, and in accordance with the terms and conditions set out in each plan, the Board shall assume the undernoted contributions to the Plans, based upon full-time employment of employees eligible to enroll in such Plans.

Unless otherwise directed by the Teacher, the Board shall enroll the Teacher in single benefit coverage. Basic Life insurance is mandatory.

(b) The agreement to pay the cost of a group benefit plan in whole or in part, shall not be construed as an intention or obligation on the part of the Board to pay or provide the benefits under any such group to any Teacher should any insurer fail or refuse to pay or provide same, in whole or in part.

(c) Subject to, and in accordance with the terms and conditions set out in each Plan, part-time Teachers shall be eligible for the benefits as described in clauses 6.012, 6.013, 6.014, 6.015, 6.016.

(d) If a part-time Teacher is eligible and elects to participate in a Plan or Plans, the Board will assume a portion of the undernoted percentage premium cost(s), such portion to be determined as follows:

Percentage of time worked by part-time Teacher	X	Board share of premium cost for a full-time Teacher

The remainder of the premium cost shall be paid by the part-time Teacher.

(e) The Board shall contribute the percentage of premium costs for full-time employees as hereinafter set out.

6.011 **Effective September 1, 2010, savings generated by moving to twenty-six (26) pay periods in the 2009/10 year from 22 pay periods in 2008/09 will be calculated for the Dufferin-Peel Secondary Unit (DPSU). A fifty percent (50%) share of the saving, which is a current estimate of $40,000.00, will be allocated to the DPSU for use towards temporary benefit enhancements in the 2010/11 year, exclusive of any other benefits.**

Any unused portion of the benefit enhancement in the year will be carried over to the next school year and applied to the same benefit enhancement. Likewise, any deficit will be carried over to the following year

and will be deducted from the following year's temporary benefit enhancements.

The savings generated from 26 pay periods will be calculated for each subsequent year within the term of this agreement, September 1, 2008 to August 31, 2012, for purposes of calculating the fifty percent (50%) share. Each year's amount is independent of prior years.

The following items that are ear-marked are:

i) Hearing aids ($2,000.00 every five years)

ii) Board funded E.H.C. ($10.00 and $20.00 deductibles)

6.012 **Life Insurance**

$10,000 basic Life Insurance coverage will be provided……100% of required premiums. Additional optional coverage at 3 x annual salary….0% of required premiums.

6.013 Semi-private hospital coverage……..100% of required premiums

6.014 Major Medical Plan with extension to cover: vision care $200 every 24 months for adults and $150 every 12 months for dependent children, hearing aids **$500 (until August 31, 2010); $2,000 (as of September 1, 2010)** every five (5) years, chiropractic coverage maximum **$225 (until December 31, 2008); $275 (as of January 1, 2009)** per person and Health Care Outside Canada, Deductible $10 single, $20 family……90% of required premiums.

6.015 Dental Plan II based on current year O.D.A. Fee Guide including, maximum orthodontic $3,000, maximum individual dental $2,000, including 9-month recall examinations…….90% of required premiums

6.016 Long Term Disability Benefits become effective after

seventy-five (75) working days of continuous disability……100% of required premiums.

6.017 The Employer reserves the right to change employee benefit insurers or carriers at any time, providing that the benefits are equal or better, with notification to the **Executive** of the Dufferin-Peel Secondary Unit.

6.018 All new or changed coverage of benefits negotiated into this Agreement, unless otherwise specified, will take effect the first day of the month following ratification. Any increases in premiums that occur during the period of this Agreement will be recognized as a cost in negotiating the subsequent Collective Agreement.

6.020 Any E.I. rebates to which Teachers are entitled shall be paid over to the Treasurer of the Dufferin-Peel Secondary Unit. The Dufferin-Peel Secondary Unit agrees to indemnify and save harmless the Board from any and all consequences of paying the E.I. rebates.

6.021 For the purposes of eligibility for benefits coverage under Article 6.013, 6.014 and 6.015, an employee's "family" shall also include any unmarried children in regular, full-time attendance at a bona fide educational institution, who are dependent upon the employee for support and who are under the age of twenty-five (25).

Any mentally or physically handicapped child who was insured up to the maximum age shall remain insured beyond such age provided the child **qualifies, and** upon reaching the maximum age and thereafter, is incapable of self-sustaining employment and totally relies upon the employee for support and maintenance.

6.022 The Board shall make available through its insurers optional life insurance coverage for dependent spouses and dependent children (including children who would qualify under Article 6.021) of teaching employees. The following conditions shall apply to such insurance:

(i) Such insurance shall be available in units of $10,000 up to a maximum of ten (10) units for **dependents**.

(ii) The Teacher shall pay for cost of such insurance and shall pay the yearly premium either in full at the time of applying for such insurance or by means of bi-weekly payroll deduction.

ARTICLE 7 – LEAVE PLANS

7.011 **Cumulative Sick Leave Plan**

The Board will provide a sick leave credit plan whereby Teachers may accumulate a reserve of sick leave to a maximum of two hundred and twenty-five (225) days which will permit a Teacher during a period of lengthy illness or disability to have the benefit of continuing salary.

To provide encouragement for Teachers who, for reasons of good health to not use such credits, the Board will provide a gratuity plan for retirement purposes for those Teachers who are eligible as defined in 7.020. However, the plan is intended to provide a credit which is to be used for reasons of personal illness, disability or as defined under Article 7.019 (a) is considered to be a contravention of the Plan. The administration of the Plan shall be vested in the Treasurer of the Board.

7.012 Each full-time Teacher shall be entitled to have 100% of the unused portion of annual sick leave of twenty (20) days transferred annually to accumulated sick leave credits to a maximum of two hundred and twenty-five (225) days.

7.013 Each Teacher shall be given a statement of cumulative sick leave credits on September 30th of each school year. When a Teacher leaves the employ of the Board, he/she shall be entitled to receive a statement of his/her cumulative sick leave credits.

7.014 (a) Where a Teacher commences employment after September 1st in any year, for the purpose of sub-section 7.011 hereof, the sick leave of twenty (20) days shall be calculated on the basis that twenty (20) days bears to one (1) year of employment.

(b) Part-time Teachers shall be entitled to sick leave credits in accordance with Article 7.014 (a) above on a pro-rated basis.

7.015 A Teacher entering into a contract with the Dufferin-Peel Catholic District School Board who was previously employed by an education system in Ontario operating a Sick Leave Credit Plan shall have transferred to his/her credit with the Dufferin-Peel Catholic District School Board, any sick leave credits which he/she had accumulated with his/her former system, to a maximum of two hundred and twenty-five (225) days.

7.016 For the purpose of calculating retirement gratuity in 7.020 the total number of cumulated sick days shall not exceed two hundred (200) days.

7.017 Teachers who are absent from work shall follow the appropriate reporting procedures as established by the Human Resources Department. Teachers who are absent without following the appropriate reporting procedures shall be subject to salary deductions.

7.018 (i) Subject to clause (ii) below, absence for illness or injury of a Teacher for a period of five (5) consecutive working days or less may be certified by the school Principal or by the official of the Board in charge of the appropriate department. Absence over five (5) consecutive working days must be certified by a qualified medical or dental practitioner. Upon request, the Teacher shall provide such certification to the appropriate **Board** official through the **Superintendent of Employee Relations/designate** within ten (10) working days of the request. Any such request shall be made no later than five

(5) working days following a return to work.

(ii) A Teacher who is absent for illness or injury for a period of five (5) consecutive working days or less may be required to file a medical or dental certificate within ten (10) working days of her/his return to work, if required by the Director of Education.

7.019 (a) The Director of Education**/designate** may grant emergency leave up to a maximum in any one (1) year of ten (10) days (to include any days granted under sub-paragraph (b) below) to a Teacher. With the exception of days granted under sub-paragraph (b) below, any such **days granted shall be deducted from sick leave credits. Use of emergency days include: religious holiday, weather conditions, graduation, moving, writing exams (1 day per occurrence) and family illness (2 days per occurrence).**

(b) (i) A Teacher shall be granted a leave of absence up to a maximum of five (5) days by reason of a death in the Teacher's immediate family. "Immediate family" is defined as a spouse, parent, parent-in-law, child, grandchild, brother, sister, ward or former legal guardian.

(ii) A Teacher shall be granted leave of absence up to a maximum of two (2) days by reason of a death in the Teacher's family to attend the funeral. This will be in the case of the death of an uncle, aunt, grandparent, brother-in-law, son-in-law, daughter-in-law, sister-in-law, niece or nephew.

7.020 **Retirement Gratuity**

Teachers commencing employment after December 1979, will not be eligible for Retirement Gratuity.

A Teacher, after ten (10) or more years of continuous service with the Board is entitled to a Retirement Gratuity when retiring for age or for physical or mental incapacity

or upon death while in the employ of the Board under the same terms as would make such employee eligible for pension or disability allowance under the Teachers' Pension Act.

7.021 The Retirement Gratuity shall be calculated according to the following formula but shall not exceed 50% of the Teacher's salary rate at retirement or death;

$$\text{Retirement Gratuity} = (10\% \times A \times \frac{B}{200}) + (C \times B)$$

A = Cumulative Sick Leave at pension or death

B = Average salary of the best three (3) years of service with this Board

C = 2% for each additional year beyond ten (10) years of service with this Board

The gratuity is available either in a lump sum or in not more than six (6) monthly payments.

7.022 **Retirement Gratuity – Commuted Value Option**
Effective September 1, 2001, a Teacher who chooses to exercise the commuted value option of her/his Ontario Teachers' Pension Plan benefits, shall be entitled to receive a retirement gratuity in accordance with Article 7.020 above so long as the Teacher retires from her/his permanent teaching position with the Board no sooner than one (1) month prior to qualifying for pension benefits under the Ontario Teachers' Pension Plan.

7.040 **Required Absences**
A Teacher who is required to be absent because of jury duty, subpoena or quarantine shall not be subject to loss of pay or deduction from sick leave credits.

7.041 A Teacher who is on jury duty shall tender all monies received from the courts to the Board less such amounts

as are intended for mileage and other stated expenses, in order to qualify for payment as set out herein.

7.050 (a) At the request of the Dufferin-Peel Secondary Unit, the Board shall grant leaves of absence with pay and benefits for up to **three (3)** Teachers to be used by the President, **First Vice-President** and/or other officer of the Dufferin-Peel Secondary Unit for the duration of their respective terms of office, provided the Dufferin-Peel Secondary Unit reimburses the Board for the salary and benefits of the Teachers involved. The salary of the President of the Dufferin-Peel Secondary Unit shall be based on the amount prescribed in the Dufferin-Peel Secondary Unit by-laws.

(b) The leave shall commence at either the beginning of classes following summer vacation or semester break, and shall also end at one of those times.

(c) Such requests for leave of absence shall be presented to the Director of Education in writing and shall be made before May 31st. In extenuating circumstances a request for leave of absence may be made after May 31st so long as it is made at least sixty (60) days before the leave is to commence. If any leave is to be less than full time, then the Teacher in question will be granted half-time leave on the following basis:

(i) full day, alternate school days; or
(ii) half day, every school day; or
(iii) an alternate plan mutually agreed upon by the Director of Education and the Dufferin-Peel Secondary Unit.

(d) Seniority, experience and the accumulation of sick leave credits shall continue during the leave.

7.052 Upon request of the Dufferin-Peel Secondary Unit to the

Director of Education, a Teacher shall be released from his/her duties to perform official Association/Federation business without loss of pay or sick leave credits or benefits, provided that the Dufferin-Peel Secondary Unit reimburses the Board for the cost of a supply Teacher at the daily rate. Should no replacement be available no charge shall apply to the Dufferin-Peel Secondary Unit. Such leaves shall not exceed two (2) consecutive school days unless mutually agreeable to the Director of Education and the Dufferin-Peel Secondary Unit. Upon receipt of an invoice from the Board, the Association will remit within twenty (20) working days, the full amount due.

7.053 Any Teacher elected to a position on the Provincial Executive of O.E.C.T.A. or the Ontario Teachers' Federation (OTF) or to the OTF Board of Governors shall be granted the leave necessary to fulfill his/her duties. The Board shall be reimbursed for this leave by the appropriate body. Seniority, experience and the accumulation of sick leave credits shall continue during the leave.

7.060 Pregnancy and Parental Leave will be in accordance with the Employment Standards Act (see Appendix "B")

7.061 (a) A Teacher who has completed one (1) year of employment with this Board at the time of commencing pregnancy leave shall be entitled to an extended leave of up to two (2) years (inclusive of any pregnancy leave and parental leave taken under the Employment Standards Act), provided that such leave must terminate within the two (2) years' period on the day immediately preceding either the first school day of the school year, the first school day of the second semester, or (in the case of a non-semestered school) the first school day following the Christmas break.

(b) A Teacher who takes pregnancy and/or parental leave in

accordance with the Employment Standards Act or a Teacher who is granted an extended leave under section 7.061 (a) shall, subject to the in-school surplus and redundancy provisions of this Agreement, return to the same school.

(c) Effective September 1, 2005 a Teacher who is granted an extended leave under section 7.061 (a) is required to submit a notice of return to the Superintendent of Human Resources by February 15 (for return on the first school day of the school year) and October 1st (for return on the first school day of the second semester). Where the notice of return is not received, the extended leave will expire as per the timelines of the leave.

Teachers who wish a leave of absence beyond their entitlement in 7.061 (a) are required to apply as per 7.068 (a) and (b).

7.062 A Teacher, who adopts a child and who has successfully completed one (1) year of employment with this Board at the time the child comes into the custody, care and control of the Teacher for the first time, shall be entitled to an extended leave under the same terms and conditions as outlined for an extended leave in section 7.061 above.

7.063 During the period of pregnancy leave or parental leave taken in accordance with the Employment Standards Act, the Board shall, as required by section 51 of that Act, continue to assume its share of benefit premiums in accordance with the percentages set out in Article 6 of this Agreement.

7.064 Time granted for pregnancy leave and/or parental leave under the Employment Standards Act shall be credited towards teaching experience to a maximum of fifty-two (52) weeks.

7.065 The Board shall grant a Teacher a paternity leave of four (4) days with full salary and benefits. Such leave must be taken within the period of seventeen (17) weeks following the birth of the child or, in the case of adoption, the time when the child comes into the custody, care and control of the Teacher and his spouse for the first time.

7.067 Any Teacher who proposes to become a candidate in a provincial or federal election may apply in writing to the Director of Education or his designate for leave of absence without pay for a period,

(a) not longer than that commencing on the day on which the writ for the election is issued and ending on polling day; and

(b) not shorter than that commencing on the day provided by statute for the nomination of candidates and ending on polling day.

Where a Teacher has been granted leave of absence under this Article and is not elected, the Board agrees to return the Teacher to the same school and class, or position, which he/she held at the beginning of the leave.

7.068 (a) At the Board's discretion, a Teacher who has successfully completed his/her probationary period may be granted a leave of absence without pay for one (1) full school year, or one (1) semester, for personal reasons such as study, and/or travel, or the care of a family member.

(b) Applications must be made in writing to the Superintendent of Human Resources and must be received not later than March 1 of the school year immediately prior to the school year in which the leave is to commence (or October 1 for a leave in the second semester).

(c) The Teacher shall have the option of assuming the full costs of the benefit premiums as outlined in Article 6 of

this Collective Agreement except for the Long Term Disability coverage as set out in Article 6.016.

(d) Teachers who access a leave of absence under subsection (a) are required to submit a notice of return to the Superintendent of Human Resources by February 15th (for return at the beginning of semester 1) and October 1st (for return at the beginning of semester 2). Where the notice of return is not received, the leave of absence will expire as per the timelines of the approved leave. Teachers who wish to extend their leave of absence are required to apply as per (a) and (b) above.

ARTICLE 8 – NO STRIKE-NO LOCKOUT

8.010 There shall be no strike or lockout during the term of this Agreement or of any renewal of this Agreement. The terms "Strike" and "Lockout" shall be as defined in the Ontario Labour Relations Act, 1995.

ARTICLE 9 – GRIEVANCE PROCEDURE

9.010 The purpose of this Article is to establish a procedure for the settlement of grievances.

9.011 The time limits in this Article and Article 10 are mandatory, except as set out in sub-section 9.018.

9.012 Within Article 9, Grievance Procedures and Article 10, Arbitration, a "working day" shall be defined as a school day. The steps of the grievance procedure may continue through the summer months upon the mutual agreement of both parties.

9.013 Within the terms of this Agreement, a "grievance" shall be defined as a difference as to the interpretation, application, administration or alleged violation of this Agreement.

9.014 A grievance to be acceptable under this Agreement, if it proceeds to Step 2, must be in writing by a Teacher

employed by the Board, and must specify the Article or Articles allegedly violated, must contain a precise statement of the facts relied upon, must indicate the relief sought, and must be signed by **an authorized representative of the Unit.**

9.015 Grievances shall be settled in the following manner:

Step 1

(i) A Teacher having a grievance arising under this Agreement shall submit **via the Unit**, a written grievance to the Superintendent, Employee Relations, or the Superintendent's designate.

(ii) The grievance must be submitted within ten (10) working days after the Teacher first became aware of, or would reasonably be expected to become aware of, the circumstances giving rise to the grievance. A grievance must be submitted during the life of this Agreement, except where fifteen (15) days from the circumstance giving rise to the grievance have not elapsed prior to the expiration of the Agreement. Under no circumstances will such a grievance be submitted fifteen (15) days beyond the life of the previous Collective Agreement.

(iii) The Superintendent, Employee Relations or the Superintendent's designate, shall meet with the Association within fifteen (15) working days to discuss the grievance. This will be followed up with a written response as soon as possible but no longer than five (5) days after the grievance meeting.

(iv) The grievor may be accompanied by a representative of the Dufferin-Peel Secondary Unit.

Step 2

(i) If the Teacher initiating the grievance is not satisfied with the reply at Step 1, or if no reply is

received within the time for reply set out in Step 1, such Teacher, **via the Unit**, may, within five (5) working days after the reply at Step 1 has been or should have been given, refer the grievance to an Associate Director, or designate Superintendent appointed by the Chairperson of the Board.

The Associate Director, or designate Superintendent, shall meet with the Association within fifteen (15) working days after submission of the grievance to hear the grievance. This will be followed up with a written response as soon as possible, but no more than five (5) days after the grievance meeting.

Step 3

(i) If the Teacher initiating the grievance is not satisfied with the reply at Step 2 or if no reply is received within the time for reply set out in Step 2, such Teacher, via the Unit, may within five (5) working days after the reply at Step 2 has been or should have been given, refer the grievance to a panel of three (3) Trustees.

(ii) The grievor may be accompanied by up to three (3) representatives of the Dufferin-Peel Secondary Unit.

(iii) The Board shall reply in writing within five (5) working days following the meeting with the panel of three (3) Trustees to which the grievance was referred.

(iv) By mutual consent of both parties, the grievance shall be referred directly to arbitration pursuant to Article 10.

(v) If the Teacher initiating the grievance is not satisfied with the reply at Step 3 (i), the grievance

may be referred to arbitration, **via the Unit**, pursuant to Article 10 hereof, provided such action is taken within ten (10) working days of the reply at Step 3.

9.016 The Dufferin-Peel Secondary Unit may process a grievance affecting a Teacher or a group of Teachers. The grievance shall be signed by the appropriate grievance officer(s) of the Dufferin-Peel Secondary Unit, and shall be processed at Step 2 of the grievance procedure as outlined in Article 9.015. Upon agreement of the parties, such grievances may be processed at Step 1.

9.017 The Board may process a grievance alleging a violation by either, or both, of the Dufferin-Peel Secondary Unit, its officers, a Teacher or a group of Teachers, by referring the grievance in writing to the President of the Dufferin-Peel Secondary Unit. The Dufferin-Peel Secondary Unit, shall reply in writing within ten (10) working days following receipt of the grievance. If the Board is not satisfied with the reply of the Dufferin-Peel Secondary Unit, the grievance may be referred to arbitration pursuant to Article 10 hereof, provided such action is taken within ten (10) working days of receipt of the Dufferin-Peel Secondary Unit's reply thereto.

9.018 The time limits specified in this Article and Article 10 may be amended by written, mutual agreement.

9.019 It is understood and agreed that, where a grievance is resolved at Step 1, the settlement of the grievance shall be deemed to be made without prejudice and, without restricting the generality of the foregoing, it shall not be considered to be a precedent binding on the Board in any future proceedings before any arbitrator, court or tribunal nor shall such settlement be used as evidence of past practice in any proceedings.

9.020 **Grievance-Mediation**

a) The mediation of a grievance (grievance-mediation) is an

option that may be initiated at any time during the grievance process by mutual agreement of the parties.

b) Grievance timelines shall be suspended during the grievance -mediation process.

c) The grievance-mediation process is without prejudice and any resulting resolution(s) is binding on both parties.

d) A mediator shall be chosen by mutual agreement of the parties. All costs associated with this process will be shared equally between both parties.

e) The initial mediation session shall ensure that both parties are familiar with the grievance-mediation process to be used.

f) This process shall be initiated or terminated by either party at any time with written notice.

g) The termination of the grievance-mediation process shall result in the resumption of the grievance timeline from the point of initial suspension as per b) above.

ARTICLE 10 – ARBITRATION

10.010 Unless the parties have mutually agreed to process a grievance as per article 9.015 (iv) (b), then a difference arising between the Parties relating to the interpretation, application, administration or alleged violation of this Agreement, including a question as to whether a matter is arbitral, either party may, once the grievance procedure under Article 9 hereof has been completed, notify the other Party in writing of its desire to submit the difference or allegation to arbitration. A grievance must be referred to arbitration within ten (10) working days from the date of receipt of the final reply under Article 9 hereof and the failure to do so means that the grievance is deemed to be withdrawn.

10.011 The notice shall contain the name of the first party's nominee to the Arbitration Board and shall be delivered to the other within ten (10) working days from the date of receipt of the final reply under Article 9 hereof. The recipient party shall, within ten (10) working days after receipt of the notice advise the first party of the name of its nominee to the Arbitration Board.

10.012 The two (2) nominees so selected shall, within five (5) working days of the nomination of the second of them, name a third person who shall be the Chairperson of the Arbitration Board. If the Recipient Party fails to appoint an arbitrator, or if the two (2) nominees fail to agree upon a Chairperson, the appointment shall be made by the Minister of Labour for Ontario upon the request of either party.

Notwithstanding the above-noted clause, if the Board and the Dufferin-Peel Secondary Unit mutually agree that a particular grievance might be arbitrated by a single arbitrator, and if the Board and the Dufferin-Peel Secondary Unit can agree on the selection of a single arbitrator, then the grievance may be heard by such single arbitrator instead of a three (3) person Arbitration Board.

10.013 The Arbitration Board shall hear and determine the difference or allegation and shall issue a decision, and that decision shall be final and binding upon the Parties and upon any Teacher affected by it.

10.014 The decision of a majority shall be the decision of the Arbitration Board, but if there is no majority the decision of the Chairperson shall prevail.

10.015 The powers of the Arbitration Board shall be the powers set out in the Ontario Labour Relations Act, 1995.

10.016 No person may be appointed as an arbitrator who has been involved in an attempt to settle the grievance.

10.017 Each of the parties shall bear the fees and expenses of its

nominee to the Arbitration Board and shall jointly share the fees and expenses of the Chairperson.

10.018 The Board of Arbitration shall be authorized to make any decision inconsistent with any Act or Regulation thereunder or the provisions of this Agreement, nor to alter, modify or amend, add to or delete from any part of this Agreement.

10.019 At any time before or after the Board of Arbitration has been formed, but prior to the Arbitration Board's hearing of the grievance, the parties may settle the grievance and withdraw the grievance from arbitration.

10.020 Notwithstanding the procedure above, either party may request access to expedited arbitration under Section 49 of the Ontario Labour Relations Act, 1995.

ARTICLE 11 – WORKPLACE SAFETY AND INSURANCE BENEFITS

11.010 When a Teacher is eligible for and entitled to receive workplace safety and insurance benefits, the Teacher shall cause the benefit payments to be remitted to the Board and the Teacher shall continue to receive full pay for the duration of the benefit entitlement and so long as the Teacher continues to have sick leave credits. The difference between the Teacher's normal salary and the benefits shall be deducted from the Teacher's sick leave credits, on a pro rata basis.

ARTICLE 12 – DEFERRED SALARY LEAVE

12.030 **DEFERRED SALARY LEAVE PLAN**

(1)(a) DESCRIPTION:
The Deferred Salary Leave Plan has been developed to afford secondary Teachers the opportunity of taking a one (1) school year or a one (1) semester leave of absence, and through deferral of salary, to finance the leave. This

plan will allow Teachers time for rejuvenation and/or personal development.

(b) REGULATION:
The Board will grant leaves of absence to Teachers on the basis of spreading:

For leaves of one year -
five years' salary over six years ("5/6 plan"),
or
four years' salary over five years ("4/5 plan"),
or
three years' salary over four years ("3/4 plan")
or
two years' salary over three years ("2/3 plan").

For leaves of one semester -
four semesters' salary over five semesters
("2 over 2 1/2 plan"), or
five semesters' salary over six semesters
("2 1/2 over 3 plan"), or
six semesters' salary over seven semesters
("3 over 3 1/2 plan"), or
seven semesters' salary over eight semesters
("3 1/2 over 4 plan"), or
eight semesters' salary over nine semesters
("4 over 4 1/2 plan"), or
nine semesters' salary over ten semesters
("4 1/2 over 5 plan"), or
ten semesters' salary over eleven semesters
("5 over 5 1/2 plan"), or
eleven semesters' salary over twelve semesters
("5 1/2 over 6 plan").

(i) A Teacher shall not be permitted to transfer between plans, and the leave of absence shall commence on September 1 of the:
sixth (6th) year (in the case of the "5/6 plan"), or
fifth (5th) year (in the case of the "4/5 plan"), or

fourth (4th) year (in the case of the "3/4 plan"), or
third (3rd) year (in the case of the "2/3 plan"), or
fifth (5th) semester (in the case of the "2 over 2 1/2 plan"), or
seventh (7th) semester (in the case of the "3 over 3 1/2 plan"), or
ninth (9th) semester (in the case of the "4 over 4 1/2 plan"), or
eleventh (11th) semester (in the case of the "5 over 5 1/2 plan"),
from the commencement of the Teacher's participation in the plan.

(ii) The leaves shall begin on the first day of the second semester (as defined by the Modified School Year Calendar) of the:
sixth (6th) semester (in the case of the "2 1/2 over 3 plan"), or
eighth (8th) semester (in the case of the "3 1/2 over 4 plan"), or
tenth (10th) semester (in the case of the "4 1/2 over 5 plan"), or
twelfth (12th) semester (in the case of the "5 1/2 over 6 plan")
from the commencement of the Teacher's participation in the plan.

(c) ELIGIBILITY:
To be eligible to apply to participate in the plan, the Teacher must have a minimum of three (3) consecutive years of service with the Board. The number of Teachers eligible to enter into the plan in any one (1) year shall not exceed two (2) percent of the total number of Teachers covered by this agreement, plus the number of unused spaces from the previous school year. The aforementioned total may be exceeded by mutual consent.

(d) APPLICATION AND APPROVAL PROCESS:

Teachers will be provided the opportunity to attend an annual Deferred Salary Leave Information meeting held prior to November 30. The purpose of this meeting will be to provide relevant information to members contemplating enrolment in the Deferred Salary Plan.

(i) A Teacher wishing to participate in the plan must forward a written application to the Superintendent of Human Resources no later than January 31 preceding the school year in which he/she wishes to enter the plan. The Superintendent of Human Resources will forward the application with comments to the Deferred Salary Leave Plan Advisory Committee.

(ii) The Advisory Committee will be composed of the Superintendent of Human Resources, (1) Superintendent of Schools, and two (2) Dufferin-Peel Secondary Unit members.

(iii) The Advisory Committee will send all applications, its recommendations and the reasons on to the Board through the Superintendent of Human Resources.

(iv) Written acceptance, or denial, of the Teacher's request with explanation, will be forwarded by the Superintendent of Human Resources to the Teacher by May 1, in the school year the request was made.

(v) The Board's decision will be communicated to the Teacher, Principal concerned, Superintendent of Schools and the Advisory Committee by the Superintendent of Human Resources.

(vi) If the Board approves of the request, both the Teacher and the Board will sign a Memorandum of Agreement prior to the commencement of the savings portion of the Plan.

(2) SALARY DEFERRAL, BENEFITS AND INTEREST:

(a) In the years or semesters preceding the year or semester leave, a Teacher will be paid an appropriate portion of his/her grid salary and any applicable allowances as per section 12.031. The remaining amount shall be retained by the Board to be paid to the Teacher in the year or semester of the leave, in accordance with paragraph 2 (d).

(b) While a Teacher is enrolled in the plan and not on leave, the proportionate increase in coverage for Long Term Disability and Life Insurance benefits shall be maintained at 100% of salary at the Teacher's expense.

(c) The portion of salary that is held back in the deferred salary leave plan shall be placed in an account with a chartered Canadian bank (acting as agent). Throughout the Teacher's participation in a deferred salary leave plan, the control of the account shall be vested solely in the Board on behalf of the participant as herein set out. While a Teacher is enrolled in a deferred salary leave plan, the Board shall, on the following dates, pay to the Teacher the interest earned on his/her account:

(i) the last pay day in December as prescribed in the Teachers' Collective Agreement; and

(ii) the last pay day in December of each year occurring after the date specified in (i) above.

(d) Participants in the deferred salary leave plan shall elect before June 30th of the year of their leave which commences September 1, the method of payment of their deferred salary during the year of their leave according to the following options:

(i) bi-weekly pay schedule according to Article 4.021 in the Teachers' Collective Agreement, or

(ii) a lump sum of forty percent (40%) of their deferred salary on the first scheduled pay day of the school

year they begin their leave and a lump sum of sixty percent (60%) on the first scheduled pay day of the new calendar year of their leave, or

(iii) a lump sum of one hundred percent (100%) of their deferred salary on the first scheduled pay day in which the leave begins.

Participants in the semestered leave plan shall elect for either option (i) or (iii) above. For semestered leaves which commence in the second semester, participants shall elect their choice by November 30th preceding their leave.

(e) Any interest that is earned on a Teacher's account from January 1st of the calendar year in which the leave commences shall be paid to him/her as follows:

(i) a Teacher who elected in accordance with paragraph 2 (d)(i) shall be paid the interest earned for January 1 to December 31 of the calendar year on December 31 of that calendar year, and any interest earned thereafter shall be paid by the 15th of the month following the last bi-weekly payment;

(ii) a Teacher who elected in accordance with paragraph 2 (d)(ii) shall be paid the interest earned for January 1 to December 31 of the calendar year on December 31 of that calendar year, and any interest earned thereafter shall be paid on the first scheduled pay day of the next calendar year; and

(iii) a Teacher who elected in accordance with paragraph 2 (d)(iii) shall be paid the interest earned for January 1 to the first scheduled pay day of the school year in which his/her leave commenced on that pay day.

(f) Any special pay arrangement must be made by March 1st, of the year of the leave. Any other arrangement must be mutually agreed to by the Teacher and the Board.

(g) A Teacher, during the period of deferral, has no access to the deferred salary so long as the Teacher remains in the plan.

(3) SALARY, BENEFITS, YEAR OF LEAVE:

(a) In the period of the leave, the Board shall pay to the Teacher the total money deferred plus all unpaid interest less any administration costs assessed by the chartered Canadian bank.

(b) The Board shall deduct from this amount any monies required for Government deductions.

(c) Payment shall be made to the Teacher in accordance with paragraph 2 (d) and (f) hereof.

(d) The Teacher's benefits will be maintained by the Board during his/her leave of absence, however, the premium costs of all benefits in the year of the leave shall be paid by the Teacher.

(e) No sick leave credits shall be accumulated while the Teacher is on leave. All credits in the accumulated sick leave account at the start of the leave period shall be retained and recorded to the Teacher's credit on return from the leave.

(f) While on leave, any benefits tied to the salary level shall be structured according to the salary received by the Teacher in accordance with paragraph 3 (a) hereof.

(g) No other employment with the Board may be entered into while the Teacher is on leave.

(4) RETURN FROM LEAVE:

(a) Following the leave, the Teacher shall return to duty with the Board for a period that is not less than the period of the leave of absence. The Teacher shall be guaranteed an equivalent position to that which the Teacher held at the commencement of the leave subject to any other provisions in the Teacher's Collective Agreement.

(b) Upon return from leave, a Teacher shall, subject to the in-school surplus and redundancy provisions of this Agreement, return to the same school.

(5) WITHDRAWAL FROM THE PLAN OR POSTPONEMENT OF LEAVE:

(a) Withdrawal from the plan may be permitted by the Board in extenuating circumstances such as financial hardship. Where withdrawal is permitted, the Teacher will be entitled to the monies withheld plus unpaid interest, which monies shall be paid as soon as possible but in any case within thirty (30) days of the Board's decision to permit withdrawal.

(b) The administrative costs associated with processing the request and the payments of the monies and interest shall be borne by the employee. The determined cost for withdrawal from the plan has been set as $300.00 for any Teacher withdrawing from the plan after July 31 of the year of enrolment.

(c) In the event that a suitable replacement cannot be found for a Teacher who has been granted a leave, the Board may defer the leave for up to one (1) year. In this instance, the Teacher may choose to remain in the plan or receive payment as outlined in paragraph 3. If the Teacher chooses to remain in the plan, any monies shall continue to earn interest until the leave of absence is taken.

(d) A Teacher who has been granted a leave of absence under this plan may apply to the Board by January 31st of the school year immediately preceding the September lst on which the leave is to be commenced to have the leave of absence postponed by one (1) year.

(e) When there has been a postponement of the leave of absence for a period of one (1) year, a Teacher will be paid his/her usual grid salary and any applicable allowance during the year in which the leave was

originally to have been taken and the accumulated deferred salary during the year the leave of absence is actually taken pursuant to paragraph 3 hereof.

(f) A leave of absence may only be postponed for one (1) year.

(6) SENIORITY:
A leave of absence under this plan will not be construed as a break in service but will not count as teaching experience for calculation of retirement gratuity or for any other purpose. The leave of absence shall be treated as service for seniority purposes with the Board but shall not entitle the Teacher to an increment for the period of the leave.

(7) ADDITIONAL TERMS AND CONDITIONS:
All terms and conditions of the Secondary Teachers' Collective Agreement in force at the time of each step in this Plan unless specified to the contrary, shall prevail in the implementation of the agreement.

(8) TERMINATION OF EMPLOYMENT:
Should the Teacher's employment with the Board terminate or be terminated, or should the Teacher otherwise leave active employment with the Board while participating in this plan, all monies deposited plus unpaid interest shall be refunded to the Teacher. In the event of the Teacher's death any amount of the deferred remuneration that remains unpaid at the time of his/her death will be brought into the Teacher's income for the taxation year in which he/she dies pursuant to sub-section 70 (2) of the Income Tax Act, although the payment will actually be made to the Teacher's estate.

(9) RULING FROM REVENUE CANADA
The amount of income tax to be deducted is dependent upon the Board receiving a ruling to its satisfaction from Revenue Canada that the income deferral scheme

contemplated hereby is not unlawful and is acceptable to Revenue Canada and that the amount of income tax to be deducted may be computed on the actual salary paid to the Teacher.

12.031 **Approximate Percentage of Deductions**
16.7% in the case of the 5/6 plan, or
20% in the case of the 4/5 plan, or
25% in the case of the 3/4 plan, or
33 1/3% in the case of the 2/3 plan, or
20% in the case of the 2 over 2 1/2 plan, or
16.7% in the case of the 2 1/2 over 3 plan, or
14.3% in the case of the 3 over 3 1/2 plan, or
12.5% in the case of the 3 1/2 over 4 plan, or
11.2% in the case of the 4 over 4 1/2 plan, or
10% in the case of the 4 1/2 over 5 plan, or
9% in the case of the 5 over 5 1/2 plan, or
8.4% in the case of the 5 1/2 over 6 plan.

ARTICLE 13 – WORKING CONDITIONS

13.012 The organization of a Secondary School may be by subject departments or other organizational units as described by Regulation 298.

13.013 A Effective September 1, 1999, it is the intent of the Board to allocate Department Heads to Secondary Schools with a total enrolment of seven-hundred (700) or more according to the following criteria:

a) a minimum appointment of eight (8) Department Heads for each such Secondary School. Four (4) of the appointments shall be made from the following areas: English, Mathematics, Science, and Religion/Theology. The remaining four (4) appointments shall be made from the following subject areas: Moderns, Social Science, Special Education, Guidance, Business, Technological Studies, Library, Cooperative Education, Physical Education, Music, Art, Computer Studies, History,

Geography, Family Studies, Computers in Education, or English as a Second Language (ESL); and,

b) additional Department Heads shall be appointed according to the following menu:

Enrolment	Additional Department Heads
1101 – 1400	1
1401 – 1600	2
1601 – 1800	3
1801 – 2000	4
2001 – 2200	5
2201+	6

Such additional Department Heads shall be selected from the subject areas enumerated in clause (a) above or such other subject areas as the Principal might deem advisable.

13.013 B Effective September 1, 1999, it is the intent of the Board to allocate Department Heads to Secondary Schools with a total enrolment of five hundred (500) to six hundred and ninety-nine (699) students according to the following criteria:

a minimum appointment of seven (7) Department Heads for each such Secondary School. Four (4) of the appointments shall be made in the following areas: English, Mathematics, Science and Religion/Theology. The remaining three (3) appointments shall be made from the following subject areas: Moderns, Social Science, Special Education, Guidance, Business, Technological Studies, Library, Cooperative Education, Physical Education, Music, Art, Computer Studies, History, Geography, Family Studies, Computers in Education or English as a Second Language (ESL).

13.013 C Until a new collective agreement is reached, it is understood that the number of Department Heads appointed under Article 13.013A, 13.013B and Letter of Understanding #3 will not exceed the number of

Department Heads funded pursuant to the funding model.

13.013 D **In the event that the allocation of department heads in a school is reduced based on the Board approved staffing spreadsheet and in accordance with Article 13.013A, the process will be transparent.**

The following criteria will be considered (in no particular order):

- **i) student enrolment**
- **ii) projected student enrolment by department**
- **iii) number of sections (example: smallest department may be collapsed and the sections distributed to one or more other current departments)**
- **iv) curriculum alignment**
- **v) program needs**
- **vi) attrition (resignations; retirements; transfers; etc.)**
- **vii) seniority in position as Department Head at current school**

Once the area(s) of reduction have been identified, the following process will occur:

- **i) any resulting Headships will be initially available only to the incumbent/impacted Department Heads**
- **ii) qualifications of the current Department Heads will be reviewed appropriately**
- **iii) SAAC will be informed of the change in the number of Department Heads**
- **iv) the Principal (in consultation with the school Admin Team, and the Family Superintendent) will recommend to the Board, the revised Department Head allocation within the school.**
- **v) Any reduction of Department Heads shall normally be completed prior to the posting referenced in Article 14.020 B (e) (i)**

13.016 All existing Department Heads in Secondary School shall be required to be fully qualified by September 1, 1990.

13.017 New Department Heads shall have the qualifications set out in Regulation 298, section 14 except in the case of Acting Department Heads who shall have qualifications as determined by the Board.

13.018 A Notwithstanding Letter of Understanding #12, no Teacher will be required to teach more than a daily average of three (3) 80-minute periods in a semestered school (or equivalent in the case of a non-semestered school).

13.018 B A Teacher shall be consulted prior to being assigned bi-level or multi-grade classes in order that recognition of, and adjustments for, any additional workload associated with such classes will be given, provided such consideration does not violate any clause in the collective agreement.

13.018 C During the construction of Teachers' timetables, it is the intent of the parties to limit the number of class preparations assigned. **For Teachers assigned to teach half-credit courses, the number of such courses assigned to any Teacher shall not exceed four (4) per semester. The number of half-credit courses assigned may exceed four (4) per semester by mutual consent of the Teacher and Administrator.**

The consultation between school administration and Teachers during the timetabling process is limited to the consideration of:

i) Teacher preferences
ii) Teacher qualifications
iii) levels of instruction
iv) semester and/or school year
v) programme

13.018 D a) After the first SAAC meeting, the SAAC will provide to staff an explanation of the school's timetabling process.

b) Teachers will complete a standardized Preference Request Form that shall consist of:

i) Teacher's name
ii) Teacher's qualifications (as per OCT Certificate of Qualification)
iii) Teacher's course preferences

c) Through the co-ordination of the Department Head, a collegial and collaborative process will be used to generate the department timetable proposal to the school Principal.

d) Except in extenuating circumstances, timetables will be issued prior to the end of the school year.

e) The Principal shall explain to the Teacher any change in teaching assignment when known.

13.018 E a) Guidance caseloads are distributed by section equally as per the guidance ratio included in the Letter of Understanding #12

b) Through the co-ordination of the Department Head for Academic Resource, a collegial and collaborative process will be used to equitably distribute workload associated with student caseloads among the allocated resource periods. This recommended caseload distribution will be submitted through SAAC to the Principal.

13.019 The Teacher charged with the responsibility for a subject area or organizational unit shall have a maximum workload of one (1) class section less than a normal schedule for the purposes of administration in that subject area or organizational unit.

Effective September 1, 1999, the operation of Article 13.019 shall be suspended until a new collective agreement is entered into between the parties.

13.020 A (a) Full time Teachers shall be available for on call/supervision duties as follows:

825 minutes per semester with the following parameters:

i) No on calls shall be assigned on days with supervision duties

ii) Supervision/on call minutes shall be assigned in consecutive single blocks of time

iii) Only one single block of supervision/on call can be assigned per day

iv) No more than two on calls per calendar week except in **extenuating, unforeseeable circumstances where no other supervision is available, and in such cases, shall not be assigned on 3 consecutive days**

v) Minutes are exclusive of homeroom and examination days

vi) The school on call/supervision model shall be monitored by SAAC (re: usage and best practices)

(b) The Principal shall endeavour to equitably distribute necessary on call/supervision duties referred to in 13.020 A (a).

13.020 B A Teacher's timetable shall show those periods of time scheduled for "on call" and lunch.

13.020 C Part-time Teachers shall be "on call" in accordance with Article 13.020 A on a pro-rated basis.

13.030 **(i) Secondary Teachers shall be available to students in their classroom fifteen minutes prior to the first scheduled class of the day. Such time shall not constitute supervision/on-call or instructional time.**

(ii) Any assigned supervision duty during the times as outlined above, such as but not limited to, bus duty, hall duty and/or yard duty, shall constitute

supervision/on-call time. All assignments shall be included within the totals identified in Article 13.020A (a).

13.040 Every Teacher shall receive a continuous and uninterrupted forty (40) minute lunch exclusive of the allotted planning, preparation, and evaluation time.

13.041 In the event that Teachers not specifically hired to provide health support services cannot, for any reason, assist in the provision of these services, they are neither expected, nor required to do so.

The Board shall carry adequate liability insurance to protect Teachers in the event that legal action arises from the provision of these services.

13.042 (a) It is the intent of the parties that the Teacher Performance Appraisal provides individuals involved with opportunities to facilitate, assist and promote their professional growth.

It is recognized that in all Teacher Performance Appraisals the prime purpose is the professional growth of all staff involved – the Administrator and the Teacher.

The focus of the Teacher Performance Appraisal shall be activities during the school day/year. The Education Act provides for the positive acknowledgement of participation in voluntary activities.

The process relies upon the full participation of all individuals in the Teacher Performance Appraisal.

(b) Teacher Performance Appraisal shall be implemented as per the applicable legislation/regulation(s) and applicable Ministry support materials.

(c) The Education Act Section 277.32 (1) (a) shall be applied by the Board as per Teacher Performance Appraisal – A Resource Document – Institute of Catholic Education –

June 2003.

(d) The Teachers participating in Teacher Performance Appraisal shall be provided with the information related to the process, including reference to Article 13.042 prior to the initiation of the Teacher Performance Appraisal.

(e) The Board shall provide by the second Friday of October to the Unit President a list of Teachers on the Teacher Performance Appraisal cycle for the school year.

(f) The Board shall provide (through the school Principal) to the Unit President the name of any Teacher receiving an unsatisfactory rating within five working days of its disclosure to the Teacher.

(g) The Board shall endeavour to implement timelines in the Teacher Performance Appraisal for Teachers returning from leave and for Teachers placed 'on-review' to a maximum allowable limit.

(h) The Teacher Performance Appraisal documents shall not be considered for transfer, compensation or promotion to a position of responsibility defined within this agreement. All of these documents shall be submitted to the Teacher's personnel file at the completion of the school year. Access to the Teacher's personnel file will be provided to the Teacher, Supervisory Officers and the Director of Education.

(i) The Annual Learning Plan is viewed as a professional development plan developed by the Teacher during the school year. Comments offered by the Administrator regarding professional growth are to be positive reinforcement. The parties agree that the Annual Learning Plan will provide for a minimum of one learning objective. In the non-appraisal years, the review of the Annual Learning Plan will occur by mutual consent no later than October 30th of the following year.

(j) With respect to the Teacher Performance Appraisal, consistent expectations within a school shall be applied.

(k) There shall be administrative feedback for all classroom visits related to the Teacher Performance Appraisal.

(l) All "look-fors" shall be eligible for inclusion during the appraisal process. Administrators shall apply the "look-fors" (as in (b) above) in a non-prejudicial manner.

(m) Any materials requested of the Teacher during the pre-observation meeting by an Administrator will be reflected in the post-observation meeting.

(n) The Summative Report shall be submitted to the Teacher in accordance with applicable legislation and no later than two weeks prior to the end of the school year.

13.050 A Secondary Schools shall be staffed on a system-wide basis at a pupil-Teacher ratio of 17.63:1 as of September 30. For purposes of calculating the number of Teachers generated, the full-time equivalent enrolment as of September 30 in the Secondary Schools under the jurisdiction of the Board will be divided by 17.63.

Effective September 1, 1997, Secondary Schools shall be staffed on a system-wide basis at a pupil-Teacher ratio of 17.91:1. For purposes of calculating the number of Teachers generated, the full-time equivalent enrolments as of September 30 in the Secondary Schools under the jurisdiction of the Board will be divided by 17.91.

13.050 B No individual Secondary School shall be staffed at a pupil-Teacher ratio greater than 18.31:1 as of September 30, 1995.

Effective September 1, 1997, no individual Secondary School shall be staffed at a pupil-Teacher ratio greater than 18.60:1.

13.050 C For clarity, it is understood that the number of Teachers

required to meet the staffing ratios is inclusive of all credit delivery Teachers.

13.050 D **In accordance with the terms and conditions of the Provincial Discussion Table (PDT agreement) dated May 1, 2008, a secondary school's Average Daily Enrolment in "Dual Credit" courses shall be included in the calculation of the number of secondary teaching positions required in the Board pursuant to this collective agreement and/or any class size regulation.**

13.051 A The staff allocation committees described in clauses 13.051 B and 13.051 C below shall be used to assist in the allocation of Teachers generated by Article 13.050.

13.051 B There shall be established a Secondary Staffing Advisory Committee (SSAC) composed of the Associate Director, Instructional Services, and up to four (4) representatives of the Board, which may include the Superintendents of Employee Relations, Human Resources, Program Department and a Principal/Vice-Principal Association Representative, and mutually agreed appropriate resource staff and four (4) representatives of the Dufferin-Peel Secondary Unit.

Meetings shall be chaired by the Associate Director, Instructional Services, (or designate). The SSAC shall be convened by the Chair, not later than September 15, in each school year for an initial meeting. Thereafter, the committee shall meet within two (2) weeks of a request by either party. An agenda for each meeting shall be prepared prior thereto by the party requesting the meeting. The function of the committee shall be to advise the Associate Director, Instructional Services on the deployment to individual secondary schools of staff allocated to the secondary system.

The Board wide SSAC shall also advise the Associate Director – Instructional Services on staffing related to "Regional Programs" that draw students from

beyond a host school's regular boundary/catchment area.

All information pertinent to staffing will be provided to SSAC. The Board shall provide to the SSAC, reports on class sizes per course and on a school by school basis. These reports shall be provided annually by May 15, reflecting October 31 and March 31 staffing data. The reports shall be based upon an analysis of data created from the **Board data base** for each secondary school.

13.051 C Each Secondary School shall have a Staff Allocation Advisory Committee (SAAC). The committee (SAAC) shall consist of:

(a) the Principal, who shall chair the committee,
(b) the Vice-Principal (or designate) responsible for timetabling,
(c) three (3) Teachers as elected by the staff at a general staff meeting by November 15. **The names of these members will be forwarded to the Principal, when known.**
(d) one (1) of the O.E.C.T.A. School Representatives. **The name of this member will be forwarded to the Principal, when known.**
(e) **By mutual consent, additional staff members may be invited to attend.**

It is understood that the duration of the term for SAAC will be one year commencing November 16 to the following November 15.

(f) **The SAAC shall meet by the following dates and be provided with the following data:**

Dates	**Data To Be Provided**
Fourth Friday in November	**Usage to date of supervision/on call data**
Third Friday of February	**Master Timetable including**

	lunch, supervision/on call periods; supervision schedule
Fourth Friday of May	**Usage to date of supervision/on call data; section allocation by department for the following school year**
September 30	**Master Timetable including lunch, supervision/on call periods; supervision schedule**

(g) SAAC members may include items for the agenda of each meeting. Following each SAAC meeting a written report, prepared by the Principal and the OECTA Representative, shall be provided to the Teachers.

(h) The Principal shall provide to the committee a statement of the number of Teachers allocated to the school. The committee shall also be provided with the total enrolment in each course as per option sheets and other staffing assignment needs.

The function of the committee (SAAC) shall be to advise the Principal with respect to assigning staff within the school to deal with such matters as:

i) school staffing priorities;
ii) the development of the tentative staffing model for the following school year;
iii) Teacher instructional workload distributions and instructional assignments, including the number of class preparations and cooperative education assignments;
iv) creation of bi-level and multi-grade classes, and the considerations under Article 13.018 B;
v) the school supervision arrangements.

13.051 D Within the limits of the number of Teachers allocated to their schools pursuant to Article 13.050 and 13.051, Principals, with the advice of the SAAC, shall staff their schools using as a guideline for staff assignment Pupil Teacher Contacts (PTC) of 175 full credit students (or equivalent) or less per year for each full-time secondary Teacher.

13.052 Where school wide reporting occurs in addition to Ministry/Board mandated reporting, it will be limited to twice a semester.

Where contact regarding student progress is deemed to be necessary in addition to Ministry/Board mandated reporting, the following reporting options will be available (but not limited to):

i) Phone contact
ii) Standardized, school generated written reports
iii) Markbook reports

13.053 The health and safety of its Teachers and Students is a matter of paramount importance to the Board. In recognition of that fact, and consistent with the Occupational Health and Safety Act, the Board shall take all reasonable precautions to protect the health and safety of its Teachers and Students.

13.060 A Teacher shall have access during normal business hours to the Teacher's personnel file at the Catholic Education Centre upon prior written request to the Superintendent of Human Resources and in the presence of a Supervisory Officer or other person(s) designated by the Director of Education. If a Teacher requests photocopies of documents in the Teacher's file, the Board will provide such copies within three (3) school days.

A Teacher shall have the right to object in writing to the accuracy or completeness of any document in the file, and such objection shall be filed with the disputed document. Alternatively, if a Teacher disputes the

accuracy of any such document, the Teacher may appeal the matter to a member of Senior Staff designated by the Director of Education. Such Senior Staff member shall, where possible, within fifteen (15) days from receipt of a written request by the Teacher stating the alleged inaccuracy, either confirm, amend, or remove the information contained in the document.

13.061 The Board recognizes the importance of providing a workplace free from **harassment, including sexual harassment,** (see Appendix "D") which shall apply to all Teachers covered by this Agreement. It is understood and agreed that any complaints **of harassment, including** sexual harassment, shall be dealt with in accordance with the policy and shall not be subject to the grievance and arbitration procedures under this Agreement.

13.062 The Board recognizes that the inherent right of all individuals to be treated with dignity and respect is central to Catholic values and Christian beliefs. As a Catholic educational community it is committed to the creation of a working and teaching environment which fosters mutual respect for the dignity and well being of all employees and recognizes that every employee has a fundamental right to a workplace free from harassment.

Harassment may include incidents involving unwelcome behaviour, which he or she knows or should know, is unwelcome and includes but is not limited to:

- Unwanted comments, interference or suggestions;
- Various forms of intimidation and aggressive behaviour;
- Verbal and emotional abuse;
- "Bullying" – which is an attempt to undermine an individual through criticism, intimidation, hostile verbal and non-verbal communication and interfering actions.

It is understood that incidents involving alleged harassment shall be dealt with in accordance with the operational procedures referenced in Appendix F.

13.063 The Board recognizes the importance of providing a workplace free from assault and has accordingly established an assault procedure (see Appendix "C") which shall apply to all Teachers covered by this Agreement. Assaults, or alleged assaults, of Teachers are to be dealt with in accordance with the procedure, but such procedure shall not be subject to the grievance and arbitration procedures under this Agreement.

13.064 The Unit and the Board recognize the value of a safe school environment and accordingly **a "Catholic Code of Conduct (2008)"** (see Letter of Understanding **11**) has been revised.

This "Catholic Code of Conduct (2008)" shall apply to all Teachers covered by this agreement. It is understood that incidents involving violations of the "Catholic Code of Conduct (2008)" shall be dealt with in accordance with said "Code".

The Unit and the Board also acknowledge that the "Catholic Code of Conduct (2008)" includes both suspension and expulsion as viable and legitimate elements within the spectrum of progressive discipline.

It is further understood that the Unit shall, before accessing the Grievance Procedure, contact the school Principal or designate in an effort to resolve concerns arising from the application and/or interpretation of the "Catholic Code of Conduct (2008)".

It is also understood that any grievances arising shall be first engaged at Step 1 of the Grievance Procedure as outlined in Article 9 of the collective agreement.

ARTICLE 14 – IN-SCHOOL SURPLUS AND POSTINGS

14.011 "In-school surplus" shall mean a reduction in total teaching positions in a school due to:

(i) declining enrolment,
(ii) enrolment shifts brought about by the opening of new schools or caused by student option selections, or
(iii) the reduction or elimination of program.

Such positions shall be termed "surplus positions".

14.012 This Article is subject to the rights of Teachers under the Education Act.

14.013 Each school Principal shall make every effort to assign a full timetable for the following school year to all Teachers currently assigned to the school.

14.014 Where a reduction of staff is necessary due to in-school surplus, reductions will be made in the following order:

i) Persons ineligible to apply for certification at the College of Teachers
ii) Teachers on long term occasional assignment
iii) Retirements/resignations
iv) Subject to section 14.017 below, reverse order of "seniority" as defined by section 14.015.

14.015 For purposes of this Article:

(a) For Teachers who are employed in secondary schools by August 31, 1991, seniority shall mean the continuous service with the Board or any of its predecessor Boards.

(b) For Teachers who are newly employed/assigned to secondary schools after August 31, 1991, seniority shall mean continuous secondary services with the Board.

(c) A Teacher who is assigned from the elementary panel to a secondary school after August 31, 1991 and prior to August 31, 1994 shall upon completion of three (3) years of secondary teaching experience,

have all years of service with the Board credited as seniority.

(d) "Continuous secondary service with the Board" shall include exchange teaching, loan to DND, Federation leaves and any and all leaves taken with the approval of the Board.

(e) In no seniority calculation shall any Teacher receive more than one (1) year of credit for any single school year.

14.016 In every instance in which two (2) or more members of the Dufferin-Peel Secondary Unit are initially found to have equal seniority, as defined by section 14.015, the following shall be used as tie breakers:

i) total consecutive secondary experience in that school, and where equal;
ii) total secondary teaching experience with this school Board, and where equal;
iii) total secondary teaching experience under contract with other school Boards, and, where equal;
iv) qualifications as reflected by placement on the salary grid, and, where equal;
v) total seniority with this Board and where equal;
vi) by lot, conducted jointly by the parties.

14.017 It is recognized that following due consideration of the information provided in Regulation 298 of the Education Act, curriculum program requirements may result in a Teacher being declared surplus to a school who has more seniority than another Teacher in the same school. Where this occurs, the Board shall provide to the affected Teacher(s) and to the Dufferin-Peel Secondary Unit an explanation of the curriculum program requirements.

14.019 (a) The Board shall send to each school three (3) copies of the seniority list as of the preceding July 1st, no later than September 30th of each school year. Two (2) copies shall

be directed to the O.E.C.T.A. school representatives. One (1) copy of the list shall be displayed upon a staff room bulletin Board.

(b) The seniority list shall consist of the names of the Teachers in the Dufferin-Peel Secondary Unit in decreasing order of seniority according to section 14.015.

14.020 A (a) All known openings shall be posted with **all required and/or preferred teaching qualifications. For positions where years of secondary teaching experience is a requirement, the posting shall indicate the requisite number of years.**

(b) To be eligible to apply for posted positions, Teachers must have the required qualifications at the time of application.

(c) Positions posted will be the actual positions filled by the successful candidate. Exceptions may occur by mutual consent.

(d) The Principal shall share and explain with the SAAC the number of openings to be posted. SAAC ensures that Teachers' preferences are considered prior to recommending postings. The SAAC will recommend to the Principal subject sections to be posted. The Principal shall solicit interest within the existing staff for positions to be considered for posting.

14.020 B (a) By the second Friday of November of each school year, the Board shall post initially in secondary schools only, available exclusively to secondary Teachers, known existing vacant department headship positions in schools to be opened in the next school year and in schools which will be adding a grade in the next school year.

(b) By the **second Friday of January**, the Board shall post in secondary schools only, available exclusively to secondary Teachers, known existing vacant teaching

positions in schools to be opened in the next school year and in schools which will be adding a grade in the next school year.

(c) **By January 20th, the Board shall determine and communicate to school Principals and the President of the Dufferin-Peel Secondary Unit, the school enrolment projections to be used for staffing purposes. Within two weeks after January 20th, the Associate Director, Instructional Services, as in section 13.051 B, shall distribute to the school Principal the staffing spreadsheet.**

(d) Prior **to the end of the first semester**, each school Principal shall hold a general staff meeting in order to communicate projected enrolment changes for the following school year and probable numbers of staff to be hired or declared surplus.

(e) (i) By the fourth Friday in **February**, the Board shall post initially in secondary schools only, available exclusively to secondary Teachers, known existing vacant department headship positions in schools in the next school year.

(ii) By the fourth Friday in February, the Board shall post available exclusively to secondary Teachers the known teaching positions vacant in secondary schools for the next school year.

(iii) Vacant teaching positions that are not filled as a result of the postings referred to in clause (ii) above, shall be held for the possible placement of Teachers who are declared surplus under subsection 14.020 (f).

(iv) Vacant teaching positions that remain unfilled after the placement of surplus Teachers referred to in clause (iii) shall be available for posting as per Article **14.022.**

(f) By the **fourth Friday of March**, the Principal shall have determined, after receiving the advice of the Staff Allocation Advisory Committee, the staffing requirements of the school, the staff who are declared surplus and the teaching positions which are vacant.

(g) In-school surplus staff for the following school year shall be declared by the fourth Friday of March. The President of the Dufferin-Peel Secondary Unit shall be notified in writing of the names of such in-school surplus Teachers and the relevant facts by which such determination was made.

(h) Teachers who are declared surplus to a school shall be notified by the Board in writing by the first Friday of April. A copy of this notification shall also be sent to the President of the Dufferin-Peel Secondary Unit at that time.

(i) Upon notification of surplus status, Teachers shall indicate to the Board the geographic areas (Family of Schools) to which they would prefer to be reassigned.

(j) **By April 15th**, or as soon thereafter as is possible, the Board shall have held a Boardwide meeting of Principals and senior administration, with the presence of the President, or designate, of the Dufferin-Peel Secondary Unit in an observer status, in order to place surplus staff.

14.020 C (a) Application to posted openings must be submitted by 4:00 PM of the closing day of the posting.

(b) Teachers shall have the option to submit electronically, to the Principal, a completed application for posting.

(c) All postings shall be advertised electronically on the Board's public web site. In addition a paper copy of the posting shall be distributed to each secondary site and to the President of DPSU.

(d) All applications received shall be time stamped.

(e) Upon their request, Teachers interviewed for posted openings shall have an opportunity for feedback.

14.021 Surplus staff shall be assigned by seniority to positions for which they are qualified.

14.022 (a) By **the third Friday in April**, the Board shall post in secondary schools only, available exclusively to secondary Teachers the known teaching positions vacant in secondary schools for the next school year, when there are no surplus Teachers.

(b) When there are unplaced surplus Teachers, the Board shall post by the **third Friday in April** in secondary schools only, available exclusively to secondary Teachers, subject to 14.023 (c), the known teaching positions vacant in the following areas only:

- ESL
- Special Education
- FSL, and,
- Technological Studies (Reg. 298, S14 (c))

(c) Vacant teaching positions that remain unfilled referred to in clause (a) above shall be available for Board-wide posting.

(d) An additional posting shall be held subsequent to (a) above. This posting shall be Board-wide.

14.023 (a) Subject to the curricular program requirements of the school as described in section 14.017 Teachers declared surplus as in sections 14.016 and **14.020 B (g)** shall retain the right of first refusal to any teaching position vacancies in their present school for which they are qualified **until the last day of the school year.**

(b) Teachers declared surplus and subsequently placed in another school retain the rights of any other Teacher to apply for teaching positions declared vacant in

subsequent postings.

(c) No teaching position shall be posted or advertised as vacant for which an unplaced surplus Teacher holds qualifications.

(d) The Board shall not assign a surplus Teacher outside of the secondary panel without the written permission of the Teacher.

14.025 **(a) Qualified Teachers applying for a secondary exclusive posted position shall be granted an interview by the Principal. If there are more than 5 applicants, the Principal may limit the number of interviews from 5 to 10 in accordance with the following ranked criteria:**

i) Teacher Qualifications (OCT)
ii) Seniority as per Article 14.015
iii) Years qualified (OCT)

(b) Interviewees for a secondary exclusive position will be identified by completing and submitting the Application For Published Openings form in accordance with Article 14.020C. A successful candidate will be selected.

(c) If less than three Teachers apply for any secondary exclusive posting, the position will be re-posted as a secondary exclusive posting. Where less than three Teachers apply all applicants will be interviewed following the second posting. A successful candidate will be selected.

(d) Article 14.025 is not applicable to:

i) Special Education postings
ii) Department Head postings
iii) Coordinators, Consultant postings
iv) Board wide postings

(e) This posting procedure applies to:

i) all new schools scheduled to open for the 2009-10 school year

ii) all exclusive secondary postings effective September 1, 2009

ARTICLE 14A – REDUNDANCY

14A.010 1. **Secondary redundancy is generated by excess secondary Teachers based upon secondary student enrolment panel-wide.**

2. This Article is subject to the Rights of Teachers under the Education Act.

3. Where reduction of staff is necessary due to declining enrolment or the reduction or elimination of program, reductions will be made on the following basis and in the following order:

(a) (i) Normal attrition
(ii) Teachers under the first year of a probationary period
(iii) Teachers under the second year of a probationary period
(iv) Permanent Teachers.

(b) Seniority shall be determined according to the following criteria:
(i) Length of continuous service with this Board or any of its predecessor Boards
(ii) Length of total teaching experience with this Board
(iii) Length of total teaching experience
(iv) Qualifications as reflected by placement on the salary grid
(v) Where all the above factors are equal, determination shall be decided by lot, **conducted by the parties through an objective, centralized process.**

(c) When making new appointments to teaching

personnel, the Board shall rehire in reverse order of seniority those Teachers who were dismissed **and who are on the recall list** due to declining enrolments, provided that the Teachers recalled are qualified as indicated in the Regulations under the Education Act.

(d) Teachers on exchanges or secondments shall continue to accumulate seniority for the purposes of this Article. Seniority shall be accrued as outlined in Article 12.030 (6) of the Deferred Salary Leave Plan for those personnel in the Plan.

(e) Teachers who have been declared redundant shall remain on the seniority list/recall list for **three (3) years or until they:**

i) are placed at another school within the Board;

ii) accept a full time teaching position in another school Board;

iii) have declined an offer of placement.

(f) Where staff redundancies are necessary under the provisions of this Article, the Dufferin-Peel Secondary Unit will be advised prior to Teachers being laid off.

(g) Any dispute regarding length of service on the seniority list will be resolved by the Board and the Dufferin-Peel Secondary Unit within one (1) month subsequent to the seniority list being published.

(h) Where two (2) or more Teachers have the same seniority, the order on the list shall be determined according to Article 14A.010.3. (b).

(i) Any Teacher recalled to a teaching position shall be given full recognition for experience accumulated to the date of termination.

(j) Placement on the recall list as identified in 14A.010 3(e) will not constitute a break in service for seniority purposes.

(k) A declaration of redundancy will occur as late in the school year as possible – subject to provisions within the Employment Standards Act.

(l) Where Teachers declared redundant are currently placed in a school, their position for the following school year will be filled by Teachers on the unplaced surplus list as per the processes in the Collective Agreement.

(m) If there is the potential of redundancy within the Board, then "Board-wide" postings will be delayed until the redundant Teachers have been declared.

(n) In such circumstances, identified in (m) above, "Board-wide" postings will commence when either:

i) There is no declaration of redundancy within the Board.

or

ii) All redundant Teachers on a recall list are initially offered available positions in the corresponding panel for which they are qualified, as per Regulation 298.

Secondary Teachers will be given the option of being placed in available elementary positions for which they are qualified in reverse order of seniority. This option shall be available prior to such positions being offered to external candidates. Provisions under 14A.010(3)(i) and (j) shall apply to Teachers who exercise this option. Exercising this option would result in removal from the secondary recall list. A decision not to accept this option shall not be

considered a rejection of a secondary recall notice as outlined in 14A.010(3)(e).

4. When a program needing a specialized Teacher is jeopardized, the Teacher of that program shall be given special consideration, unless a staff Teacher who would be classified as redundant may qualify for the position.

ARTICLE 15 – PROFESSIONAL DEVELOPMENT

15.010 The Board shall establish a fund to be used for professional conference purposes. The fund shall be equal to two (2) times the total amount set aside for Staff Development by the Dufferin-Peel Secondary Unit; provided that in no school year shall the Board be required to contribute more than $28.00 per Teacher calculated on the number of full-time equivalent Teachers in the employ of the Board as of October 31.

Such Board fund shall be administered, and accounted for, separately from any funds designated for Professional Development purposes of elementary school Teachers. The Dufferin-Peel Secondary Unit shall advise the Board prior to October 31 of each school year of the amount set aside for Staff Development in that school year, and agree to provide the Board with copies of their relevant financial records, as they may be requested from time to time.

ARTICLE 16 – PART-TIME TEACHING LOAD

16.010 Teachers are entitled to access a part-time teaching load as per Appendix G, subject to the surplus and redundancy provisions of this Agreement.

16.011 Grid placement of Teachers participating in a part-time teaching load shall be based on teaching qualifications and experience, and the salary and benefits of such Teachers shall be pro-rated in accordance with the teaching load.

ARTICLE 17 – CONTINUING EDUCATION

17.010 Definitions:

(a) "Continuing Education Teacher" as referred to in this Article shall mean a Teacher employed to teach a continuing education course or class established in accordance with the regulations for which membership in the Ontario College of Teachers is required by the regulations.

(b) "Continuing education course" shall mean a credit course developed from Ministry of Education guidelines or approved by the Ministry of Education and which has been scheduled for the number of hours prescribed by the Ministry of Education.

17.011 The Board shall pay to a Continuing Education Teacher for each hour of instruction in a credit course the following rate of pay:

Effective September 1, 2008

Basic Rate	Statutory Holiday Pay	Vacation Pay	Total
$44.08	**1.32**	**1.76**	**$47.16**

Effective September 1, 2009

Basic Rate	Statutory Holiday Pay	Vacation Pay	Total
$45.40	**1.36**	**1.82**	**$48.58**

Effective September 1, 2010

Basic Rate	Statutory Holiday Pay	Vacation Pay	Total
$46.76	**1.40**	**1.87**	**$50.03**

Effective September 1, 2011

Basic Rate	Statutory Holiday Pay	Vacation Pay	Total
$48.16	**1.44**	**1.93**	**$51.53**

17.012 No Principal or Vice Principal of a continuing education evening or summer school, who is a Teacher during regular day classes, will have his or her seniority affected by the Part X.1 definition of "teacher" under the Education Act.

17.013 A continuing education Teacher shall not be paid while absent from duties for any reason.

17.014 Other than as set out in this Article, the terms and conditions of this Collective Agreement shall not be applicable to Continuing Education Teachers.

17.015 Notwithstanding Article 17.014, the grievance and arbitration procedures set out in this collective agreement shall apply to Continuing Education Teachers with respect to the terms and conditions of employment set out in Article 17.

17.016 The Board and the Teachers agree that the employment of a Continuing Education Teacher is conclusively deemed to be terminated upon the completion of the course which the Teacher was employed to teach or the date of cancellation of the course which the Teacher was employed to teach.

17.017 Notwithstanding Article 17.016, if a course which a Continuing Education Teacher was employed to teach is cancelled on or after the first scheduled session of such course, the Board shall pay to such Teacher the sum of two hundred ($200) in addition to any hourly rate earned by the Teacher for the course prior to its cancellation.

17.018 The following articles are to be incorporated within the terms and conditions of employment for Continuing Education Teachers:
1.030 A (i) (ii)
1.030 B
1.035 (a) (b)
13.061

13.062
13.063
13.064

17.019 The Board will administer the employment of Continuing Education in a non-arbitrary/non-discriminatory manner.

17.020 Prior Learning Assessment Recognition (PLAR)

a) Teachers are able to access PLAR work through Human Resources posting procedures.
b) Compensation for PLAR related work is as per article 17.011.

APPENDIX "A"

CO-ORDINATOR

A Teacher appointed as Co-ordinator by the Director of Education is assigned the responsibility for planning and developing of curriculum. A Co-ordinator may also administer an academic area. The position requires consultation and co-ordination with other disciplines and departments.

A Co-ordinator assists and advises the Director of Education, Superintendents, Principals, Consultants and Teachers on a Board-wide basis, and provides liaison with external agencies.

CONSULTANT

A Teacher appointed as a Consultant by the Director of Education is assigned the responsibility of a Curriculum Consultant within a specific academic area and/or instructional area. A Consultant operates under the supervision of a Superintendent and/or Co-ordinator either in a family of schools or within the bounds of a specific delegated assignment.

The Consultant assists and advises Principals and Teachers in the updating of current programs and the development of new ones. Consultants will also assist with Teacher Professional Development.

APPENDIX "B"
PART XIV

PREGNANCY AND PARENTAL LEAVE

Definitions – 45.

In this Part,

"parent" includes a person with whom a child is placed for adoption and a person who is in a relationship of some permanence with a parent of a child and who intends to treat the child as his or her own;

Pregnancy Leave – 46.

(1) A pregnant employee is entitled to a leave of absence without pay unless her due date falls fewer than 13 weeks after she commenced employment.

When leave may begin

(2) An employee may begin her pregnancy leave no earlier than the earlier of,

(a) the day that is seventeen (17) weeks before her due date; and
(b) the day on which she gives birth.

Exception

(3) Clause (2)(b) does not apply with respect to a pregnancy that ends with a still-birth or miscarriage.

Notice

(4) An employee wishing to take pregnancy leave shall give the employer,

(a) written notice at least two weeks before the day the leave is to begin; and
(b) if the employer requests it, a certificate from a legally qualified medical practitioner stating the due date.

Notice to change date

(5) An employee who has given notice to begin pregnancy leave may begin the leave,

(a) on an earlier day than was set out in the notice, if the employee gives the employer a new written notice at least two weeks before that earlier day; or

(b) on a later day than was set out in the notice, if the employee gives the employer a new written notice at least two weeks before the day set out in the original notice.

Same, complication, etc.

(6) If an employee who stops working because of a complication caused by her pregnancy or because of a birth, still-birth or miscarriage that occurs earlier than the due date, subsection (4) does not apply and the employee shall, within two weeks after stopping work, give the employer,

(a) written notice of the day the pregnancy leave began or is to begin; and

(b) if the employer requests it, a certificate from a legally qualified medical practitioner stating,

(i) in the case of an employee who stops working because of a complication caused by her pregnancy, that she is unable to perform the duties of her position because of the complication and stating her due date;

(ii) in any other case, the due date and the actual date of the birth, still-birth, or miscarriage.

End of pregnancy leave – 47.

(1) An employee's pregnancy leave ends,

(a) if she is entitled to parental leave, 17 weeks after the pregnancy leave began;

(b) if she is not entitled to parental leave, on the day that is the later of,

(i) 17 weeks after the pregnancy leave began, and

(ii) six weeks after the birth, still-birth or miscarriage.

Ending leave early

(2) An employee may end her leave earlier than the day set out in subsection (1) by giving her employer written notice at least four weeks before the day she wishes to end her leave.

Changing end date
(3) An employee who has given notice under subsection (2) to end her pregnancy leave may end the leave,

(a) on an earlier day than was set out in the notice, if the employee gives the employer a new written notice at least four weeks before the earlier day; or
(b) on a later day than was set out in the notice, if the employee gives the employer a new written notice at least four weeks before the day indicated in the original notice.

Employee not returning
(4) An employee who takes pregnancy leave shall not terminate her employment before the leave expires or when it expires without giving the employer at least four weeks' written notice of the termination.

Exception
(5) Subsection (4) does not apply if the employer constructively dismisses the employee.

Parental Leave – 48.
(1) An employee who has been employed by his or her employer for at least thirteen weeks and who is the parent of a child is entitled to a leave of absence without pay following the birth of the child or the coming of the child into the employee's custody, care and control for the first time.

When leave may begin
(2) An employee may begin parental leave no more than fifty-two weeks after the day the child is born or comes into the custody, care and control for the first time.

Restriction if pregnancy leave taken
(3) An employee who has taken pregnancy leave must begin her parental leave when her pregnancy leave ends unless the child has not yet come into her custody, care and control for the first time.

Notice
(4) Subject to subsection (6), an employee wishing to take parental leave shall give the employer written notice at least two weeks before the day the leave is to begin.

Notice to change date
(5) An employee who has given notice to begin parental leave may begin the leave,

(a) on an earlier day than was set out in the notice, if the employee gives the employer a new written notice at least two weeks before that earlier day; or
(b) on a later day than was set out in the notice, if the employee gives the employer a new written notice at least two weeks before the day set out in the original notice.

If child earlier than expected
(6) If an employee stops working because a child comes into the employee's custody, care and control for the first time earlier than expected,

(a) the employee's parental leave begins on the day he or she stops working; and
(b) the employee must give the employer written notice that he or she is taking parental leave within two weeks after stopping work.

End of parental leave – 49.
(1) An employee's parental leave ends 35 weeks after it began, if the employee also took pregnancy leave and 37 weeks after it began, otherwise.

Ending leave early
(2) An employee may end his or her parental leave earlier than the day set out in subsection (1) by giving the employer written notice at least four weeks before the day he or she wishes to end the leave.

Changing end date
(3) An employee who has given notice to end his or her parental leave may end the leave,

(a) on an earlier day than was set out in the notice, if the employee gives the employer a new written notice at least four weeks before the earlier day; or

(b) on a later day than was set out in the notice, if the employee gives the employer a new written notice at least four weeks before the day indicated in the original notice.

Employee not returning
(4) An employee who takes parental leave shall not terminate his or her employment before the leave expires or when it expires without giving the employer at least four weeks' written notice of the termination.

Exception
(5) Subsection (4) does not apply if the employer constructively dismisses the employee.

Rights during leave – 51.
(1) During any leave under this Part, an employee continues to participate in each type of benefit plan described in subsection (2) that is related to his or her employment unless he or she elects in writing not to do so.

Benefit plans
(2) Subsection (1) applies with respect to pension plans, life insurance plans, accidental death plans, extended health plans, dental plans and any other prescribed type of benefit plan.

Employer contributions
(3) During an employee's leave under this Part, the employer shall continue to make the employer's contributions for any plan described in subsection (2) unless the employee gives the employer a written notice that the employee does not intend to pay the employee's contributions, if any.

Length of Employment – 52
(1) The period of an employee's leave under this Part shall be included in calculating any of the following for the purpose of determining his or her rights under an employment contract:

1. The length of his or her employment, whether or not it is active employment.
2. The length of the employee's service whether or not that service is active.
3. The employee's seniority.

Exception
The period of an employee's leave shall not be included in determining whether he or she has completed a probationary period under an employment contract.

Reinstatement – 53
(1) Upon the conclusion of an employee's leave under this Part, the employer shall reinstate the employee to the position the employee most recently held with the employer, if it still exists, or to a comparable position, if it does not.

Exception
(2) Subsection (1) does not apply if the employment of the employee is ended solely for reasons unrelated to the leave.

Wage rate
(3) The employer shall pay a reinstated employee at a rate that is equal to the greater of,

(a) the rate that the employee most recently earned with the employer; and
(b) the rate that the employee would be earning had he or she worked throughout the leave.

APPENDIX "C"
ASSAULT PROCEDURE

Guidelines
When an employee has been the subject of an assault, the following steps should be taken:

a) the assailant will be removed from the presence of the employee immediately;

b) the employee is to receive immediate and appropriate support and/or medical attention;

c) in the event of a physical assault medical verification of the assault should be established as soon as possible;

d) at the earliest opportunity, the employee must inform the Principal or supervisor and the Principal or supervisor must inform the Superintendent of Employee Relations, the appropriate line superintendent and the appropriate association/union (the O.E.C.T.A./A.E.F.O. staff representatives and the Branch Affiliate President);

e) the Superintendent of Employee Relations seeks legal advice for the Board and the employee from the Board lawyer;

f) the Superintendent of Employee Relations informs the employee of the support of the Board, the availability of legal advice, and the access to sick leave for recovery;

g) the Principal, supervisor or designate conducts an investigation into the incident, unless the police have been called;

h) in all cases, even where the police are called and investigation is left to the police, the Principal writes an outline report of the series of events. N.B. Where the assailant is from outside the school, the police must be called.

i) a) where the assailant is a student the Principal takes appropriate action under the Education Act.

b) where the assailant is a fellow worker, the Employee Relations

Department will take action under appropriate labour legislation;

j) Copies of reports made by the Principal or supervisor must be provided for the appropriate supervisory officer and the employee.

APPENDIX "D"

Preamble: The entire GAP #305 Employee Workplace Conduct procedure applies for any incident related to discrimination and harassment. The following excerpts from GAP #305 are included below for practical reference.

Harassment Procedure (including Sexual Harassment)
General Administrative Procedure (GAP #305
Employee Workplace Conduct)

Statement of Commitment:
The Board recognizes that the inherent right of all individuals to be treated with dignity and respect is central to Catholic values and Christian beliefs. As a Catholic educational community it is committed to the creation of a working and teaching environment which fosters mutual respect for the dignity and well being of all employees and recognizes that every employee has a fundamental right to a workplace free from harassment.

The Board understands that Supervisors are charged with the task of managing their staff. The Board believes that this task can and should be performed in a respectful and appropriate manner.

The Board will respond to all harassment complaints, even cases that do not fall within the jurisdiction of the Ontario Human Rights Code. That is, where the behaviour is not based on the complainant's membership in a group protected by the Code.

Principles:
It is the impact of the harassing behaviour upon the victim that is the determining factor, not the intent. The impact is a level of discomfort that the behaviour causes. Dignity, well being and respect of the individual are paramount.

Harassment:
Harassment is defined as engaging in a course of vexatious comment or

conduct that is known to be unwelcome. Harassment normally involves persistent comments or conduct, but may include a single act.

Harassment may include but is not limited to:

(a) Unwanted comments, interference, or suggestions
(b) Various forms of intimidation and aggressive behaviour
(c) Verbal and emotional abuse
(d) "Bullying" – which is an attempt to undermine an individual through criticism, intimidation, hostile verbal and nonverbal communication and interfering actions
(e) Withholding of information necessary to perform one's duties
(f) Abuse of position/authority – this does not include the normal exercise of supervisory responsibilities, including direction, counseling and discipline when necessary
(g) Jokes, name-calling or displaying material(eg: posters, cartoons) which demean, embarrass or humiliate

Sexual Harassment:
Sexual Harassment is defined as any unwelcome sexual comment or conduct that intimidates, demeans or offends an individual. Sexual harassment is an expression of power in a sexual manner. Sexual harassment includes, but is not limited to, that which creates a hostile or offensive work environment, or could be reasonably thought to put sexual conditions on a person's job or employment opportunities. Sexual harassment is prohibited under the Code regardless of the gender of the persons involved.

Sexual Harassment may include, but is not limited to:

(a) Unwelcome sexual innuendo
(b) Unwelcome sexual advances
(c) Inappropriate body contact
(d) Request for sexual favours
(e) Display of exploitive material
(f) Leering
(g) Unwelcome questions or comments about a person's sexual life

(h) Unwelcome comments on a person's sexual attractiveness or unattractiveness

Resolution Procedures:
Nothing in these procedures prevents an employee from exercising his or her rights under The Human Rights Code or The Criminal Code. Further, the rights of all parties will be respected throughout the process. The Complaint Procedure should not be invoked or pursued at the same time as a parallel complaint before the Ontario Human Rights Commission, or while a complaint is being dealt with through the grievance process.

The goal of the resolution procedures is to stop the harassing behaviour. All processes must remain confidential. Teachers must be aware of their responsibilities under the Teaching Profession Act 18 (1)(b) and the Ontario College of Teachers' Code of Ethics.

It is understood that throughout the process the Teacher complainant will be kept informed of any actions that are taken.

Employee Workplace Conduct Checklist for Dealing with an Incident of Discrimination or Harassment

GENERAL ADMINISTRATIVE PROCEDURE: #305.00

All persons working for the Board or carrying out Board business on a temporary,part time or full time basis are covered by this procedure.

Complaints from an individual or group should be reported within a reasonable time following the occurrence of the triggering incident. The Board adopts a six-month time frame and may, in its discretion, decide not to deal with the complaint when the facts upon which the complaint is based occurred more than six months before the complaint was filed. However, where a reasonable circumstance exists for failing to bring the complaint forward within six-months, and the delay would not result in any prejudice to Respondent, a complaint may be accepted beyond the six-month time limit.

IN SOME CIRCUMSTANCES STEP 1 AND/OR STEP 2 MAY BE BYPASSED AND THE COMPLAINT PROCEDURE MAY BE STARTED AT STEP 3. THE

SUPERINTENDENT OF EMPLOYEE RELATIONS WILL MAKE THE FINAL DETERMINATION REGARDING COMMENCEMENT AT STEP 3. COMPLAINTS OF SEXUAL HARASSMENT WILL BE DEALT WITH AT STEP 1 OR STEP 3.

STEP 1 - SPEAK UP

(THE MAJORITY OF CASES ARE RESOLVED AT THIS STEP)

- ☐ **Complainant is advised to record the details surrounding the incident (times, dates, places, names, witnesses, circumstances etc).**
- ☐ **Complainant to advise the Respondent in person or in writing that he/she considers the conduct in question to be offensive and request the Respondent to stop. This may be done in the presence of a resource person.**
- ☐ **Both the Complainant and the Respondent are advised to document the details of the meeting.**
- ☐ **If the Complainant writes to the Respondent, a copy of the correspondence is to be kept.**
- ☐ **If the Respondent fails to stop, or if the Complainant does not feel comfortable in confronting the Respondent in the first place, or if not satisfied with the initial contact, then move to STEP 2 (IN CASES OF SEXUAL HARASSMENT – STEP 3).**

STEP 2 – INFORMAL PROCESS
(Not used in the case of sexual harassment complaints)

- ☐ **Complainant contacts his/her Supervisor/Manager/Principal as soon as possible within the timelines noted previously. (If the Respondent is the Supervisor/Manager/Principal, contact the respective Superintendent).**
- ☐ **The Supervisor/Manager/Principal is required to contact the respective Superintendent/designate for a consultation within two (2) working days.**

- ☐ **The Complainant submits the completed Workplace Conduct Complaint form and any other documentation.**
- ☐ **Supervisor/Manager/Principal ensures that the Respondent receives a copy of the complaint within three (3) working days of submission.**
- ☐ **Supervisor/Manager/Principal ensures that the Complainant and Respondent are informed that a representative may accompany them to any meetings.**

Action may include:

- ☐ **Meeting between the Supervisor/Manager/Principal and the Respondent to discuss the concern(s).**
- ☐ **Referral to other procedures as the Board considers appropriate.**
- ☐ **Referral of the concern(s) to STEP 3.**
- ☐ **Meeting between the Supervisor/Manager/Principal, Complainant and the Respondent to reach a resolution, AND**
- ☐ **Resolution – Agreement/letter is prepared and signed by both the Complainant and the Respondent. A copy to be forwarded to the Superintendent of Employee Relations marked "Private and Confidential" OR**
- ☐ **No Resolution – Move to STEP 3.**

STEP 3 – FORMAL RESOLUTION
(In the case of sexual harassment: In lieu of Step 1, at the option of the Complainant)

- ☐ **Complaint is filed with the Superintendent of Employee Relations. Copy of Workplace Conduct Complaint form completed and submitted with request to move complaint to Step 3.**

- ☐ **Superintendent of Employee Relations designate will advise both the Complainant and Respondent within two (2) working days that the complaint has been forwarded to Step 3.**

- ☐ **Superintendent of Employee Relations designate (may be Board employee or independent) will commence a separate investigation into the complaint within ten (10) working days of the receipt of a written request for a Step 3 investigation.**

- ☐ **Superintendent of Employee Relations' designate to interview the Complainant, Respondent and any witnesses (separately).**

  Note: **If the complaint can appropriately be resolved through mediation, an effort to do so will be made by the Superintendent of Employee Relations/designate. If it is determined by the Superintendent of Employee Relations/designate that mediation is not appropriate, or if no resolution is reached through mediation, the investigation will continue and a determination in the matter will be made by the Superintendent of Employee Relations.**

Note If mediation is successful, the agreement reached between the parties will be confirmed in writing by all parties. A copy of the mediated agreement will be given to both the Complainant and the Respondent and a copy will be stored in secure file in the Employee Relations Department.

THE SUPERINTENDENT OF EMPLOYEE RELATIONS' DESIGNATE WILL INVESTIGATE FULLY. THE INVESTIGATION SHALL BE COMPLETED AS EXPEDITIOUSLY AS POSSIBLE.

Following the investigation:

- ☐ **The Complainant and the Respondent will be advised by the Superintendent of Employee Relations/designate of the conclusion of the Step 3**

investigation.

- ☐ **The results of the investigation will be shared with the Complainant and the Respondent. The specific details of any disciplinary action will only be provided to the employee who is disciplined.**
- ☐ **In the opinion of the Board, reasonable investigation information, including for example names of witnesses and factual information provided, will be shared in confidence with the Union representative(s) of the Complainant and/or Respondent, upon written request.**

OUTCOMES

Depending on the outcome of the Step 3 investigation, a decision regarding rehabilitative or disciplinary action for the Respondent and/or the Complainant may include, but is not limited to:

- ☐ **Counselling**
- ☐ **Education on Harassment**
- ☐ **Formal written apology**
- ☐ **Change of work assignment of the Complainant and/or Respondent**
- ☐ **Disciplinary action up to and including dismissal**

For more detailed information, refer to Employee Workplace Conduct Procedure, GAP #305.00, Revised March 2007.

Consultation with Principal and OECTA

The following are a list of options available to be implemented with the intent to stop harassing behaviour as soon as possible. Should the harassing behaviour Continue, Teachers should access the following options where applicable, dependant upon the parties involved and the nature of the complaint.

- "Access to Property" Letter
- Meeting with Individual and/or Principal and/or Supervisory Officer (develop a possible strategy for resolution)

- Letter from OECTA to a member regarding obligations to a fellow member
- Legal Counsel – Letter from Board and/or OECTA
- Police involvement
- Grievance Procedure
- Human Rights Complaint
- Workplace Conduct Procedure (GAP 305)
- Employee Relations Department involvement
- Section 265(m) of The Education Act – exclusion of an individual
- The Occupational Health and Safety Act
- Complaint to Plant and/or Purchasing Department re: Contract workers
- Memorandum of Settlement

APPENDIX "E"

Temporary Administrative Replacement

(a) A Temporary Administrative Replacement is a Teacher appointed by the Director of Education, on the recommendation of the Principal, to be the Principal's designate to carry out administrative duties when the school's administration is required to be absent from the school. The Temporary Administrative Replacement is responsible only for responding to emergency situations. Where a school's enrolment exceeds 1500 students, the Temporary Administrative Replacement can be assigned when only one Administrator is on site.

(b) A Temporary Administrative Replacement shall not discipline or evaluate other Teachers.

(c) It is understood that:

i) the appointment of the Temporary Administrative Replacement is for one year.

ii) no on-calls will be generated as a result of the utilization of a Temporary Administrative Replacement.

iii) the time spent by a Temporary Administrative

Replacement performing such duties is not part of the Teacher's 825 minutes of supervision/on-call time per semester.

iv) **the Temporary Administrative Replacement will not be called upon more than on two (2) consecutive days.**

v) **a list of all Temporary Administrative Replacements will be provided to the Unit on an annual basis, no later than October 15th.**

APPENDIX "F"

Part Time Teaching Load

The following process for part time teaching load is available only to Teachers assigned to a school within the staffing complement listed on the Board wide staffing spreadsheet.

1. Prior to the Christmas Break, the Principal will hold an information meeting for Teachers interested in part time teaching opportunities for the following school year.

2. A Teacher considering a part time teaching workload is encouraged to contact the Ontario Teachers' Pension Board regarding potential pension implications.

3. A Part Time Teaching Workload Form is available at the main office and/or the OECTA Representative.

4. A Teacher seeking part time work shall submit a Part Time Teaching Workload Form to the Principal by January 15th of the preceding school year of said request. Completion of the Part Time Teaching Workload Form is an indication of a commitment to that school for the following school year. **It is understood that any Teacher who submits a Part Time Teaching Workload Form to the Principal shall not normally apply nor be eligible for a general leave as per Article 7.068 and will be subject to provisions therein but with due consideration to extenuating circumstances.**

5. A Teacher shall receive written acknowledgement of receipt of their Part Time Teaching Workload Form by January 15th.

6. All part time requests submitted by January 15th to the Principal via the Part Time Teaching Workload Form shall be granted. The Principal shall submit a Staffing Request Form to Teacher Personnel for any Teacher whose F.T.E. status is changed as a result of this process.

7. A part time teaching workload shall be applied throughout the entire school year.

8. Part time teaching workload options available at the time of submission of the Part Time Teaching Workload Form are: **0.33; 0.50; or 0.67** equivalent of one (1) FTE.

9. A Part Time Teaching Workload Form cannot be withdrawn or modified after January 15th except by mutual consent of the Principal and the Teacher.

10. A Part Time Teaching Workload Form is for a period of one year and must be submitted annually, conforming to the prescribed timelines. In the absence of a Part Time Teaching Workload Form, the Teacher will be assigned a full time teaching workload for the following school year.

11. Part time Teachers shall indicate preferences for teaching periods on the Part Time Teaching Workload Form. This request shall receive full consideration by the Principal.

12. A Teacher subsequently declared surplus and placed at another school may not be able to retain their part time teaching workload. This request shall receive full consideration by the receiving Principal.

13. Job expectations of a part time Teacher are consistent with that of a full time Teacher.

14. Department Heads with a part time teaching workload shall perform all Department Head responsibilities unless;

    a) By mutual consent of the Principal and the Department Head,

such responsibilities and allowances are pro-rated with another Teacher, or,

b) By mutual consent of the Principal and the Department Head, forego the responsibilities and allowance for the duration of the part time teaching workload with such responsibilities and allowances being assigned in an acting capacity to another Teacher consistent with Article 5.051.

15. Each Principal shall calculate the total part time FTE complement. If the total part time FTE complement is a decimal **(0.33; 0.50; 0.67)** such information shall be provided to the SSAC sub committee in order that it be accommodated in the assigned school staffing.

Dufferin-Peel Catholic District School Board
Part-time Teaching Workload Form

(This form will be accepted by the Principal up until January 15th in any year)

Date Submitted: _____ School: _____

Full Name (Please print)_____Employee # _____

Please check one: ☐ Teacher

☐ Department Head

Part Time Teaching Workload Request (please check one):

☐ .33 ☐ .50 ☐ .67

Part Time Teaching Period Preference (please check appropriate period/s)

Period 1 ☐

Period 2 ☐

Period 3 ☐

Period 4 ☐

Period 5 ☐

I understand that submission of this form precludes application to any postings and/or normally general leaves as per Article 7.068 for the following school year.

Teacher Signature: _____

Principal Signature: _____

Date Received: _____

School: _____

	Teacher Name	Employee #	Teaching Load Request (.33, .50 or .67)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
	Total Part-time		0

Principal Signature _____

*To be completed by the School Principal and forwarded to the Principal of Employee Relations

LETTER OF UNDERSTANDING NO. 1

The Board shall provide to the Dufferin-Peel Secondary Unit, a copy of each of the current master benefit plans and any subsequent revisions to such plans.

LETTER OF UNDERSTANDING NO. 2
Unit Representation on Board Committees

It is understood that where the Board establishes an active standing or ad-hoc Board-wide committee which impacts Teacher working conditions for which Teacher participation on the committee is desired by the Board, and also for which there is no legislative or contractual obligation mandating Unit participation, the Board shall request the name of a Teacher from the DPSU to serve on said committee. The DPSU President will forward the name of the Unit approved appointee to the Board.

This does not preclude the Board from having additional Teachers with particular expertise, beyond the Unit approved appointee, serve on any Standing or Ad-hoc Board-wide committee.

It is further understood that if the Unit requests to have more than one Unit approved Appointee on any Standing or Ad-hoc Board-wide committee, and if the Board agrees, the costs associated with the additional appointee's participation including, but not limited to, Occasional Teacher Costs and Mileage, will be borne by the DPSU.

LETTER OF UNDERSTANDING NO. 3
SMALL SCHOOL STAFFING

A) Notwithstanding Articles 13.013 A, 13.013 B, and 13.050, it is understood that a small school (i.e. with an enrolment of less than five hundred (500) F.T.E. secondary students) may require a lower P.T.R. and fewer Department Heads than a larger school.

B) The Director of Education has discretion with respect to the staffing of a small school.

C) A joint Staffing Committee comprised of the appropriate Family Superintendent, one (l) member of the Employee Relations

Department, two (2) members of the Dufferin-Peel Secondary Unit, and the Principal of the small school shall be formed to make a recommendation to the Director of Education concerning the number of Teachers to be employed and the number of Department Heads to be appointed each school year (excluding Principal and Vice-Principal, if any).

D) The Committee shall present its recommendation to the Director of Education no later than February 15 each school year. If the Committee is unable to reach a consensus for a recommendation, the Director subsequently shall meet with the Committee.

LETTER OF UNDERSTANDING NO. 4
SHIFT AND/OR SHARED SCHOOLS

It is understood that where a student is enrolled, for the purposes of classroom instruction, in more than one (1) secondary school within the Board, both secondary schools, including the school that retains the O.S.R. shall register and report that student to the Ministry.

It is further understood that any staffing issues arising due to the fact that a student may be attending at more than one (1) secondary school, will be addressed by the Associate Director, Instructional Services with the advice of the Secondary Staffing Advisory Committee (SSAC).

LETTER OF UNDERSTANDING NO. 5

The parties agree that there shall be no in-school release periods unless **Ministry funding is to be provided.**

LETTER OF UNDERSTANDING NO. 6

It is understood that the selection of Teachers for Continuing Education credit delivery teaching positions shall be based on criteria developed by the Board and reviewed annually in consultation with the Dufferin-Peel Secondary Unit.

LETTER OF UNDERSTANDING NO. 7

It is understood that, upon completion of a leave taken under Article 7.050 or 7.068, the Board shall return a Teacher to the same school and position,

subject to the in-school surplus and redundancy provisions of this Agreement.

LETTER OF UNDERSTANDING NO. 8

It is understood that whenever substantial changes to the reporting procedure, as referred to in Article 7.017, are contemplated, the Dufferin-Peel Secondary Unit will be consulted.

LETTER OF UNDERSTANDING NO. 9

At the request of either party, a joint ad hoc committee shall be formed to review and examine issues of "shift" and/or "shared" schools at least six (6) months prior to any "shift" and/or "shared" school arrangement being established. The Committee shall be comprised of two (2) representatives from the Dufferin-Peel Secondary Unit and two (2) representatives from the Board.

LETTER OF UNDERSTANDING NO. 10

A Teacher, who is appointed to a position of co-ordinator or consultant, shall have the opportunity to return to or remain in the secondary bargaining unit upon completion of that appointment. Should the Teacher be deemed to be an elementary co-ordinator or consultant for the period of the appointment, Article 14.015 will not affect any subsequent calculation of seniority for the purpose of in-school surplus.

LETTER OF UNDERSTANDING NO. 11

It is understood that should the current "Catholic Code of Conduct (2008)" need to be reviewed and/or amended, the Unit will be asked to participate in the review/amendment process.

LETTER OF UNDERSTANDING NO. 12

Effective September 1, 2005

1. a) The guidance ratio will be 400 students per Teacher Guidance Counsellor;

   b) The number of library Teachers will be one (1) FTE per secondary school;

c) The removal of release periods for department heads effective September 1, 1999, until a new collective agreement is entered into between the parties.

2. The instructional time assigned will be in accordance with the Education Act, as amended, and the regulations thereto.

3. The parties agree that the funds required to facilitate this intention must be provided by the Provincial Funding Model as it relates to the specific Teacher allocations for secondary Teachers.

4. For the purposes of staffing, calculations are based on a full blended enrolment figure for the school year by taking the average of October 31st and March 31st expected enrolment in secondary schools, in order to meet the class size requirement of the Education Act.

5. The foregoing is contingent upon the availability of qualified Teachers required to reduce the workload.

LETTER OF UNDERSTANDING NO. 13

The parties will meet to clarify Teacher responsibilities during a strike of another employee group.

LETTER OF UNDERSTANDING NO. 14
Workload, Supervision/On Call

It is understood that there will be no differentiated staffing and that any supervision required to meet the legislated workload will be applied as per Article 13.020A. The parties agree that if legislation requires more supervision/on call than provided in 13.020A, the Board will implement whichever is greater.

LETTER OF UNDERSTANDING NO. 15

When the Board considers the establishment of "e-learning" curriculum delivery during the regular school day, the parties agree to form a joint implementation committee to review and recommend proposed models such that workload and staffing provisions are consistent with the Collective Agreement.

LETTER OF UNDERSTANDING NO. 16

Upon the request of either party, the parties shall meet to review the implementation of any proposed changes to alternative education programming.

LETTER OF UNDERSTANDING NO. 17

Electronic Communication
The parties acknowledge that the Board communicates important information regarding its practices via electronic mail and as such it is important that employees access their Board e-mail on a regular basis.

LETTER OF UNDERSTANDING NO. 18

Functional Abilities Form
A Teacher on a medical leave receiving a Functional Ability Form from the Board, shall present this form to the attending physician for completion. The Teacher will also sign the form authorizing the physician to release the information included on the Functional Ability Form to the Board. The form, as completed by the physician, is to be returned to the Health Promotion & Wellness department within the timelines requested, except in extenuating circumstances.

LETTER OF UNDERSTANDING NO. 19
Class Size Guidelines

The two parties, through the Joint Consultation Committee, shall research, study and produce a report outlining class size guidelines. Areas to be explored include, but are not limited to:

Class size numbers
PTC usage
Effective usage of class size data

The work on this issue shall commence no later than 90 days after ratification and the parties shall present their recommendations by June 1st, 2009.

LETTER OF UNDERSTANDING NO. 20

The two parties shall establish a Joint Consultation Committee. The committee shall operate in accordance with the following terms of reference:

i) The Joint Consultation Committee will be comprised of three (3) representatives of D.P.S.U. and three (3) representatives of the Board.

ii) Each party can bring additional resource personnel as agreed to by the parties.

iii) The Joint Consultation Committee discussions will include, but not be limited to, the following standing issues:

- **a) Workload / Class Size**
- **b) New Initiatives**
- **c) Teacher Welfare**
- **d) Contract Administration**
- **e) Safety In Schools**

iv) The Committee shall meet on a bi-monthly basis except during the summer months and negotiations.

LETTER OF UNDERSTANDING NO. 21
Professional Development

(a) Professional Development shall be job-embedded, informed by research, and done in partnership between the Board and DPSU.

(b) Professional Development shall be addressed at the system level through the establishment of a Joint Committee.

(c) Professional activities for Teachers during Professional Activity days shall be consistent with the learning goals identified in the Teacher's Annual Learning Plans.

(d) There shall be established a Joint Professional Development Committee composed of three (3)

representatives of DPSU appointed by the Unit Executive and three (3) representatives of the Board. The representatives of the Unit and the Board shall each nominate one of their number as a Co-Chairperson.

(e) The Committee shall meet four (4) times per year.

(f) The functions of the committee shall include but are not be limited to:

(i) oversee professional activities for Teachers during Professional Activity days.

(ii) promote best practices and sustain successful Catholic Professional Learning Communities and monitor their implementation.

(iii) for professionalism, commitment to continuous learning, collective inquiry into best practice, innovation and experimentation to improve teaching and student learning.

LETTER OF UNDERSTANDING NO. 22

Whereas it is the common goal of the Board and the Dufferin-Peel Secondary Unit to provide the best possible Catholic education for the children of this community, Teachers are required to provide a minimum of thirty (30) days written notice of their intention to resign to the Superintendent of Human Resources.

Nothing herein prevents an employee and the Board from mutually agreeing to the employee's resignation at any time.

LETTER OF UNDERSTANDING NO. 23

Changes to be made to the: Master Benefit Plan

Effective January 1, 2009, the Dufferin Peel Catholic District School Board will realize an estimated savings of approximately $120,000.00 through changes in orthotic benefits within the master benefit plan, specific to the DPSU.

These savings will be achieved by amending the number of orthotics to include three (3) pairs over two (2) calendar years and the

elimination of the chiropractor as a prescriber of orthotics.

Savings within orthotics will be used to enhance benefits within the same master benefit plan which results in no change to the annual expenditures of the Board.

The estimated savings of $120,000.00, achieved through the changes in orthotic benefits will be expended by increasing the physiotherapist to $40.00 per visit, the registered massage therapist to $25.00 per visit, changing the chiropractor service to include podiatrist and chiropodist, and increasing the limit to $275.00 per year.

Also, the parties agree that DPSU members who are actively employed will continue to have benefits, excluding LTD and the Ontario Drug Benefit Plan, until they reach the age of 70.

This will not result in an increase to benefit costs to the Board.

LETTER OF UNDERSTANDING NO. 24
PDT Benefits

In accordance with the terms of the Provincial Discussion Table (PDT Agreement) for the 2008-2012 Collective agreement, the Dufferin-Peel Catholic District School Board and the Dufferin-Peel Secondary Unit agree that:

The estimated figure provided for in the PDT Agreement for benefit enhancement in 2010-2011 is $350,000.00

The exact benefit enhancement for the DPSU will be calculated on the basis as defined in the PDT Agreement which states that, "Each bargaining unit's proportional share will be the ratio between the bargaining unit's FTE of employees eligible for benefits to the total FTE of the Board's unionized and non-unionized employees as reported in the Board's 2008-2009 Financial Statements".

Upon written request, and in accordance with the PDT Agreement, the Dufferin-Peel Catholic District School Board will provide to the Dufferin-Peel Secondary Unit the requested disclosure received by January 1, 2010 to allow informed decision making for the enhanced benefit funding. The PDT Agreement also states that "The nature of

the disclosure will be similar but not limited to the information provided by School Boards in a public procurement process".

The parties agree to meet following release of the Grants for Student Needs (GSN) for the 2010-2011 school year to discuss the DPSU enhanced benefit allocation.

By June 1, 2010 the Unit will inform the Board of the benefit enhancements that will come into effect September 1, 2010.

Once the benefit enhancements have been identified, Article 6 will be adjusted to reflect same.

LETTER OF UNDERSTANDING NO. 25

The two parties shall establish a committee for the purpose of reviewing and revising the existing collective agreement language regarding the organizational structure of Department Heads as referenced in Articles 13.012; 13.013A, B, C; 13.016; and any other relevant articles as identified by the committee. The committee shall meet no later than 90 days following ratification of this collective agreement and shall consist of up to four (4) members from each respective party. This committee shall report to the Associate Director – Instructional Services no later than June 1, 2009. If the recommendations are approved by the Associate Director, the intent of the parties is for them to be implemented effective for the 2010-11 school year.

LETTER OF UNDERSTANDING NO. 26
Mentoring

1. Mentor declaration of Interest
- **i) Mentors are identified by school**
- **ii) Any level of Mentor participation is voluntary**
- **iii) Mentors self-identify and will be eligible for selection by a Mentee**
- **iv) Mentors complete a standard Board form with copies returned to the Principal**

v) **A Board-wide Mentoring-form will be used to identify/survey the level of an individuals Mentoring involvement.**

vi) **The list of Mentors is to be posted electronically within the school to all Mentees. The List should also include specialty areas of the Mentors (English etc.)**

vii) **The List of Mentors is to be compiled and posted no later than Sept. 30.**

2. **Mentor Selection**

i) **Mentees are to select a Mentor from List**

ii) **Mentee notifies the Principal**

iii) **The List of Mentor-Mentee pairings is to be made available in the schools for the OECTA Rep.**

iv) **At the end of this process the Principal must ensure that all Mentees have been matched with a Mentor (depending on availability – it may not necessarily be from the same school and it may be a shared Mentor)**

v) **The initial list of Mentor/Mentee pairings is to be made available to all parties by October 15 by the Principal**

3. **Mentor Training**

i) **All formally designated Mentor training will occur during the school day**

ii) **Supply coverage will be provided**

iii) **All active/formally designated Mentors will receive training**

iv) **The DPSU to receive communication regarding the training**

4. **Mentor and Mentee Relationship: Roles and Responsibilities**

i) **The Mentee directs their own Mentoring program – including all recordkeeping**

ii) **The Mentor is an additional professional resource**

iii) **The Board will provide support and resources to foster positive Mentoring relationships**

iv) **Mentor communication is exclusively with the Mentee**

v) **The Mentee – Principal relationship (as per the Mentoring program) is non-evaluative and separate from T.P.A.**

vi) **The Mentee – Mentor relationship is non-evaluative**

5. Release Time

i) Expenditures for release time will be maximized

ii) Other government funded opportunities will be maximized

iii) A pool of release days will be provided at the school level to be used by both Mentee and Mentor

iv) Supply coverage will be provided

6. Relationship to TPA for both Mentor and Mentee

i) Mentoring is separate from TPA

7. Role of Department Head

i) A Department Head is not compelled to be a Mentor

ii) Department Heads will continue to provide supports they have always provided.

8. Exit Procedures

i) Any dissolutions of a Mentoring relationship will be without prejudice to either party.

N.B. The parties acknowledge that the implementation of these recommendations must be in keeping with all current and/or future Ministry directives.

LETTER OF INTENT NO. 1

The intent of Articles 13.020 A and 13.020 C is to provide for the equitable distribution of necessary supervision of all types. Nothing in these Articles is to preclude the supervision of classes for which there is no alternate supervision available.

Wording of Order in Council

WHEREAS pursuant to clause 9 (1) (c) of the *Putting Students First Act, 2012* (the "Act") the Minister of Education advises that the Boards and Bargaining Agents in respect of the Bargaining Units identified in Schedule "A" have not been able to settle a collective agreement that is consistent with the terms of the Act;

PURSUANT to subparagraph 2 i of subsection 9 (2) of the Act, and subject to any subsequent order that may be made under that subparagraph, it is ordered that:

1. For the 2012-13 and 2013-14 school years, the Collective Agreement between a Board in Column 1 of Schedule "A" and the Bargaining Agent in Column 2 opposite the Board in respect of the Bargaining Unit in Column 3 opposite the Bargaining Agent shall be the Collective Agreement between the parties in operation for the 2008-12 school years ("Incorporated Agreement"), as modified or replaced by the corresponding Memorandum of Understanding in (the "MOU") in Column 4 opposite the Bargaining Unit, O. Reg 313/12 (Sick Leave Provisions, 2012-13) and the regulation titled "General" made under the Act, the regulations titled "Sick Leave Credits and Sick Leave Credit Gratuities" and "Hiring Practices" made under the Education Act and any other regulations that may be made that specifically provide for modifications or replacements ("Regulation").

2. If a provision of the Incorporated Agreement is inconsistent with any of the terms or conditions set out in the MOU and Regulation such provision is deemed to be inoperative to the extent of the inconsistency.

3. A provision of the Incorporated Agreement is inconsistent with the terms or conditions set out in the MOU and Regulation if the provision changes, nullifies or limits the operation of a provision of the MOU and Regulation.

4. A Board and Bargaining Agent cannot by mutual consent revise the Collective Agreement to make it inconsistent with the terms of the applicable MOU in Column 4 and Regulation.

MEMORANDUM OF UNDERSTANDING

Between

THE MINISTRY OF EDUCATION

And

ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION (OECTA)

July 5th, 2012

A. Term

The term of collective agreements within the scope of this Memorandum of Understanding (MOU) is two (2) years (September 1, 2012 to August 31, 2014).

B. Salary Increases

1. 0% in 2012-13

2. 0% in 2013-14

C. Retirement Gratuities

1. Effective August 31, 2012, employees currently eligible for a retirement gratuity shall have accumulated sick days vested, up to the maximum eligible under the retirement gratuity plan.

2. Upon retirement, an employee eligible for a retirement gratuity shall receive a gratuity payout based on the employee's current accumulated vested sick days, in accordance with #1 above, and years of service and salary as of August 31, 2012.

3. Effective September 1, 2012, all accumulated non-vested sick days shall be eliminated.

D. Sick Leave/Short Term Leave and Disability Plan/Long Term Disability Plan

The provisions relating to the Sick Leave/Short Term Leave and Disability Plan, outlined below, meet the requirements of the Employment Insurance (EI) Regulations for a premium reduction under s.69 of the EI Act. If there is any question as to whether the Plan meets these requirements, the parties will cooperate so as to ensure compliance with these requirements.

Sick Leave Days

1. Each school year, a teacher shall be paid 100 % of regular salary for up to ten (10) days of absence due to illness. Illness shall be defined as per the 2008-12 local collective agreement. A part-time teacher shall be paid 100% of their regular salary (as per their full-time equivalent status) for up to ten (10) days of absence due to illness. These days shall not accumulate from year-to-year.

2. Any leave provision under the local 2008-2012 collective agreement that utilizes deduction from sick leave, for reasons other than illness, shall be granted without loss of salary or deduction from sick leave to a maximum of five (5) days per school year. Local collective agreements that currently have less than five (5) days shall remain at that number. Local collective agreements that have more than five (5) days shall be limited to five (5) days. These days shall not be used for the purpose of sick leave nor shall they be accumulated from year-to-year.

Short Term Sick Leave

1. Each school year, a teacher absent beyond the ten (10) sick leave days paid at 100% of salary, as noted in clause 1 above, shall be entitled up to an additional one hundred and twenty (120) days short term sick leave to be paid 66.67% of regular salary, and be eligible for 90% of regular salary in accordance with the Short-Term Leave and Disability (STLDP) provisions detailed below.

   The following clause is subject to either Teacher Pension Plan amendment or legislation:

   1. Within the purview of the Teachers' Pension Act (TPA), the Minister of Education will seek an agreement from the Ontario Teachers' Federation to amend the Ontario Teachers' Pension Plan to allow for adjusting pension contributions to reflect the Short-Term Sickness Leave/Short-Term Leave and Disability Proposal (STLDP) with the following principles:

      i. Contributions will be made by the employee/plan member on the unpaid portion of each sick leave day under the STLDP, unless directed otherwise in writing by the employee/plan member;

      ii. The government/employer will be obligated to match these contributions;

      iii. If the plan member/employee exceeds the maximum allowable sick-days and does not qualify for Long Term Disability (LTD)/Long Term Income Protection (LTI), pension contributions will cease and the employee is not eligible to earn pensionable service until the LTD/LTIP claim is re-assessed and approved or if the employee returns back to work.

         a. If the LTD/LTIP claim is re-assessed and approved, then the member will be entitled to earn service by making contributions subject to existing plan provisions for a period of time that does not exceed the difference between the last day of work and the day when LTIP benefits begin and the government/employer will be obligated to match these contributions.

         b. If not approved for LTD/LTIP, such absence shall be subject to existing plan provisions.

      iv. the exact plan amendments required to implement this change will be developed in collaboration with Ontario Teachers' Pension Plan (OTPP) and the co-sponsors of the OTPP (Ontario Teachers Federation (OTF) and the Minister of Education); and

      v. the plan amendments will have to respect any legislation that applies to registered pension plans such as the Pension Benefits Act and the Income Tax Act.

   In school boards where the Long Term Disability Plan waiting period currently exceeds 130 days the 120 day short term sick leave period referenced above shall be extended to the minimum waiting period required by the plan until such time, but no later than January 1, 2013, that the Association becomes the policy holder of all Long Term Disability plans.

2. For the purpose of determining the divisor for the number of days worked that constitutes a year, separate classes of employee groups shall be used. This will be consistent with the classes identified in the current long term disability plans for the respective employee groups.

Effective September 1, 2012 the school boards shall notify teachers, copied to the local unit, when they have exhausted their ten (10) days of sick leave at 100% of salary in any school year. Failure to notify an employee, or the unit, will not be subject to the grievance procedure if such failure is due to circumstances beyond the control of the board.

See attached for the common method of deduction (Payment of Reduced Income Days) to be used by all school boards.

Short Term Leave and Disability Plan (STLDP)

1. For teacher absences that extend beyond the ten (10) sick leave days paid at 100% of salary referenced above the teacher shall be eligible for a STLDP of 90% of regular salary, subject to the appended mutually agreed to third party adjudication process.

   In the event that a school board fails to implement the STLDP third party adjudication process with the Ontario Teachers' Insurance Plan (OTIP) by September 1, 2012 all absences due to illness beyond the ten (10) sick leave days paid at 100% of salary shall be paid at 90% of regular salary. Illness shall be defined as per the 2008-12 local collective agreement. Payments made prior to the implementation of the STLDP will not be subsequently adjudicated under the STLDP.

2. Subject to the third party adjudication process, an absence is eligible for the STLDP under either of the following conditions:

   a. All, or any part of, an absence of five (5) or more consecutive work days, occurs beyond the ten (10) sick leave days paid at 100% of salary.

   b. An absence of any duration beyond the ten (10) sick leave days paid at 100% of salary due to an ongoing or intermittent medical condition such as, but not limited to, recurring illnesses or medical conditions, or any form of chronic condition.

3. School boards and the Association shall fully comply with the provisions of the STLDP and cooperate with the third party adjudicator in the implementation and administration of the STLDP.

4. School boards and the Association shall fully comply with the notification requirements defined by the administration provisions of the STLDP and cooperate with the third party adjudicator in the implementation and administration of a mandatory early intervention and return to work processes as a component of the short term disability plan.

5. The school boards shall be the policyholder and be responsible for the costs of the third-party adjudication process.

6. It is agreed that, for the term of this agreement, the decisions of the third party adjudicator shall be subject only to the appeal process and not the grievance process.

7. The school board shall reimburse the cost of medical documentation required by the third-party adjudication process.

8. The agreed upon third party adjudication contract and process will be reviewed by the school boards and/or OCSTA, in consultation with OECTA, by August 31, 2014.

   Should the school boards and/or OCSTA engage in an RFP process for a third party adjudication process, the Association shall be consulted on the development of the RFP to ensure consistency with long term disability plans.

   The adjudication process between the STLDP and the long term disability plans shall provide a consistent continuum of coverage. An essential criterion in evaluating any RFP will be consideration of a seamless third party adjudication process with the long term disability plans.

Workplace Safety and Insurance Board (WSIB)

Notwithstanding the above, WSIB benefits shall be maintained in accordance with the 2008-2012 local collective agreement. For clarity, where the current WSIB top up is deducted from sick leave the board shall maintain the same level of top-up without deduction from sick leave.

Maternity Leave

Notwithstanding the above, a teacher shall receive 100% of salary for not less than a six (6) week period following the birth of her child, subject to provisions in the 2008-12 local collective agreement but without deduction from sick leave. Teachers who require a longer than six week recuperation period shall have access to the short term disability plan through the normal adjudication process.

Occasional Teachers in Long Term Assignments

1. The definition of Long Term Occasional Teacher shall be as per the respective occasional teacher local collective agreement.

2. Occasional Teachers during a Long Term Assignment shall be eligible for the Sick Leave and STLDP subject to the conditions in number three (3) below. For clarity, such plans cannot extend beyond the term of a given Long Term Assignment.

3. The number of days available to an Occasional Teacher in a Long Term Assignment in the Sick Leave and STLDP shall be based upon the following:

   (a) Sick leave and STLDP days are allocated at the commencement of the Long Term Assignment;

   (b) Ten (10) days of sick leave at 100% of salary based on a ten (10) month assignment, pro-rated based on the length of the assignment. Such leave shall not accumulate from school year to school year.

   (c) i) Sixty (60) days of STLDP, for a ten (10) month assignment, and subject to the conditions governing the STLDP as specified above. Such leave shall not accumulate from school year to school year.

ii) For Long Term Assignments of less than ten (10) months, three (3) days of STLDP per month, subject to the conditions governing the STLDP as specified above. Such leave shall not accumulate from school year to school year. These days shall be credited at the beginning of each month of the assignment, except in the case of pre-determined assignments of more than three (3) months, where such days shall be credited at the beginning of the assignment.

(d) An Occasional Teacher may accumulate unused sick leave from one Long Term Assignment to another Long Term Assignment within the same school year.

4. Any leave provision under the local 2008-2012 occasional teacher collective agreement that utilizes deduction from sick leave, for reasons other than illness, shall be granted without loss of salary or deduction from sick leave to a maximum of five (5) days per school year. Local occasional teacher collective agreements that currently have less than five (5) days shall remain at that number. Local occasional teacher collective agreements that have more than five (5) days shall be limited to five (5) days. These days shall not be used for the purpose of sick leave nor shall they be accumulated from year-to-year.

Long Term Disability (LTD) Plans

1. The Association shall be the policyholder of the Long Term Disability Plans effective January 1, 2013, except as determined by number 7 below, subject to the existing notice provisions with the current carrier. School boards shall provide all data, related to the long term disability plans, as requested by the Association's carrier.

2. All teachers shall participate in the Long Term Disability Plan as a condition of their employment subject to the terms of the respective plan.

3. The Association will work with school boards and/or OCSTA to consider including non-teaching staff in a separate plan(s) where the viability of a current LTD plan remains in question after the teachers are withdrawn from the existing plan. The Association will decide upon any request by a school board whether or not to accept other employee groups into a long term disability plan(s), subject to plan provisions as determined by the Association.

4. The school boards shall enroll all teachers, identified in 2 above, in the Long Term Disability Plan in the manner prescribed by the Association.

5. The school boards shall complete the Plan Administrator Statement as required by the plan provisions. The plan provider shall provide OECTA teachers with LTD Claim kits.

6. The school boards shall be responsible for the deduction and remittance of LTD premium contributions within fifteen (15) days in the manner prescribed by the Association. Boards shall be responsible for collecting premiums from teachers who are on a leave of absence from the board.

7. The Association shall consider requests by the Dufferin-Peel, Huron-Superior and London District Catholic School Boards to be a part of the Association long term disability plan. The school boards shall continue to pay the LTD premiums for teachers and remit said premiums as per number 6 above unless otherwise agreed to locally.

8. The Association shall assume all other administrative functions of the Long Term Disability plans for the Teachers.

9. The Association shall determine the design of the Long Term Disability plans, the terms and conditions of the plans and the selection of carrier(s), except for those boards listed in 7 above.

10. Effective September 1, 2012, the third party adjudicator shall copy the local unit notice regarding all individuals who begin to access the short term leave and disability plan at the time notification of the adjudication decision is provided to the school board.

11. Effective September 1, 2012, the school boards shall participate in early intervention programs initiated on behalf of disabled teachers who shall participate in such programs.

12. Effective September 1, 2012, the school boards shall participate in return to work programs initiated on behalf of disabled teachers.

13. The school boards shall provide a list of teachers on claim as of September 1, 2012 and on December 31, 2012.

14. By September 1, 2012 the school boards, except where the school board pays 100% of the premiums (Dufferin-Peel CDSB and Huron-Superior CDSB), and their agents shall provide to the Association and its agent(s) detailed disclosure regarding existing long term disability benefit plans for the Association members in all school boards. The appended letter "Permission to Release Experience Information", forms a part of this agreement, and outlines the obligations of the school boards and/or their agents to disclose the specified information and is subject to the Alternate Dispute Resolution in the case of any dispute concerning terms or implementation.

15. Effective July 4, 2012 school boards will not draw down on reserves, surpluses and/or deposits out of the teachers' share of the LTD plan without the express written consent of the Association. Such consent shall not be unreasonably withheld. This clause does not apply where the school board pays 100% of the LTD premiums (Dufferin-Peel CDSB and Huron-Superior CDSB).

E. Benefits

1. The government proposes to establish a committee composed of teachers' federations, support staff unions, school boards, school board trustee associations and the government (Ministries of Education and Finance) to fully investigate the creation of one or more "provincial" benefits plan(s) for the education sector, with a view to consolidation and consistency of approach.

2. The Committee would complete its work by January 1, 2014 for consideration during collective agreement discussions in 2014, with solutions that ensure the fiscal sustainability of benefits plans for employees, employers, and taxpayers into the medium and long-term.

3. Subject to committee review in paragraph E1 and E2 above, the Association shall be the policy holder of the benefits plans for all teachers in Catholic schools, excluding statutory benefits.

4. With the exception of the Long Term Disability Benefit plans, all group benefit plan coverage levels, provisions and practices in place in 2011-2012 shall remain *status quo* for the 2012-2014 collective agreements. For clarity, *status quo* includes any scheduled adjustments based on the contract definition(s) and these will occur as scheduled (e.g. If in September 2011 the ODA rate was set at 2010 rates, in September 2012 the ODA rate would be set at 2011 rates).

5. Effective July 4, 2012, in order to ensure the fiscal sustainability of health care benefit plans for employees, employers, and taxpayers into the medium and long term, the withdrawal of any monies from any health care benefit plan reserves, surpluses and/or deposits shall require the express approval of the Minister of Education. All such withdrawals shall be reported to the committee established in accordance with E1 above.

6. One of the objectives of the committee review will be to provide full and complete transparency by ensuring that there is an ongoing mechanism for the release of all benefit plan information, including all financial data, to employees through their representative organizations, employers and the government.

F. **Benefits after Retirement**

1. Effective September 1, 2013, any new retiree (or his/her family) in the education sector who has access to post-retirement benefits (health, dental, life, etc.) and pays premiums for such benefits shall be included in an experience pool segregated from all active employees, such that the pool is self-funded.

2. Effective September 1, 2013, no new retirees (or his/her family) in the education sector shall be eligible for employer contributions to any post-retirement benefits (health, dental, life, etc.).

3. Existing retirees (or his/her family) and any employee retiring before September 1, 2013 in the education sector who has access to post-retirement benefits (health, dental, life, etc.) will continue to be included in the experience pool in which they are presently included and pay the appropriate premiums for that existing experience pool. Employer contributions where they currently exist will continue for this group.

G. **Unpaid Leave Days**

The following parameter shall be in effect during only the 2012-13 and 2013-14 years:

1. All teachers, vice-principals and principals will take three (3) unpaid leave days on three (3) scheduled professional activity days for the 2013-14 school year. These days shall exclude any day designated for the purpose of assessment and completion of report cards at the elementary level (as per the 2008-2012 local collective agreement). . The dates of the unpaid leave days shall be October 11, 2013, December 20, 2013, and March 7, 2014.

2. Savings resulting from G1 above shall be applied against the government's fiscal targets for the education sector.

3. The following clause is subject to either Teacher Pension Plan amendment or legislation:

a) Within the purview of the Teachers' Pension Act (TPA), the Minister of Education will seek an agreement from the Ontario Teachers' Federation to amend the Ontario Teachers' Pension Plan to allow for adjusting pension contributions to reflect the Unpaid Professional Activity (PA) Days Proposal with the following principles:

b) The definition of pensionable salary would be amended as appropriate to ensure that it does not reflect the reduction due to the unpaid PA days;

c) The exact plan amendments required to implement this change will be developed in collaboration with OTPP and the co-sponsors of the OTPP (OTF and the Minister of Education);

d) The plan amendments would have to respect any legislation that applies to registered pension plans such as the Pension Benefits Act, and the Income Tax Act.

e) The plan amendments, if approved, will come into effect on September 1, 2012.

H. Professional Learning Funding in GSN - Elementary panel only

The Parties note the Government's intention, conditional upon the approval by the Lieutenant-Governor-in-Council, to amend the allocation in the GSN for enhancing professional learning opportunities for teachers. The per pupil funding benchmark for professional learning under the Pupil Foundation Grant will be suspended for the 2012-2013 and 2013-2014 school years.

If this funding is not reinstated, the savings will be credited towards any fiscal targets beyond the term of this MOU.

The provisions of collective agreements related to the allocation of the suspended funding for professional learning opportunities for teachers will not be operational.

I. Secondary programming

The Parties note the Government's intention, conditional upon the approval by the Lieutenant-Governor-in-Council, to amend the allocation in the GSN supporting the expansion of secondary programming. The provision in the 2008 PDT agreement providing for the expansion of secondary programming effective August 31st 2012, will not be implemented.

The provisions of the collective agreements related to the scheduled expansion of the secondary programming effective August 31st 2012 will be suspended until August 31st 2014.

If this funding is not reinstated, the savings will be credited towards any fiscal targets beyond the term of this MOU.

J. Salary Grids

1. All teachers shall move through and across the salary grid in accordance with their individual experience and qualifications, in accordance with their local collective agreement.

The increments shall come into effect on the ninety-seventh (97th) day of each school year.

The government shall provide all necessary funding to enable teacher salary grid movement for both qualifications and experience for the duration of this Memorandum of Understanding for those teachers funded through the Pupil Foundation Grant and the Teacher Qualifications and Experience Allocation.

2. The government shall meet to review school board employee salary grids with stakeholders during the term of the 2012 to 2014 PDT agreements including, but not limited to, how employees move on the experience and qualification salary grid (where applicable) and the variation currently in the monetary value of each grid step, with a view to future sustainability.

K. **Professional Judgment and Effective use of Diagnostic Assessment**

Should an existing local collective agreement provision provide a greater benefit to a teacher than the benefit provided by this provision of the MOU, the existing provision shall prevail.

"Teachers' professional judgments are at the heart of effective assessment, evaluation, and reporting of student achievement." Growing Success, Assessment, Evaluation, and Reporting in Ontario Schools, First Edition, 2010.

A teacher's professional judgment is the cornerstone of assessment and evaluation. Diagnostic assessment is used to identify a student's needs and abilities and the student's readiness to acquire the knowledge and skills outlined in the curriculum expectations. Information from diagnostic assessments helps teachers determine where individual students are in their acquisition of knowledge and skills so that instruction is personalized and tailored to the appropriate next steps for learning. The ability to choose the appropriate assessment tool(s), as well as the frequency and timing of their administration allows the teacher to gather data that is relevant, sufficient and valid in order to make judgments on student learning during the learning cycle.

The following language shall be incorporated into every collective agreement:

1. The Ministry of Education will release a Policy Program Memorandum (PPM) with respect to the effective use of diagnostic assessments.

2. Boards shall provide a list of pre-approved assessment tools consistent with their Board improvement plan for student achievement and the Ministry PPM.

3. Teachers shall use their professional judgment to determine which assessment and/or evaluation tool(s)from the Board list of preapproved assessment tools is applicable, for which student(s), as well as the frequency and timing of the tool. In order to inform their instruction, teachers must utilize diagnostic assessment during the school year.

L. **Hiring Practice**

The following language shall be incorporated into every local occasional teacher collective agreement:

Occasional Teachers (OTs) play a critical role in the educational achievement of Ontario's students and Ontario's new teachers are increasingly relying on occasional teaching assignments as their introduction to the teaching profession. The OT role is challenging and builds experience which should be recognized by Boards in the hiring for Long Term Occasional (LTO) and/or permanent positions. It is critical that the process to gain such positions be fair and transparent.

I. Seniority

Seniority as an Occasional Teacher shall commence on the most recent date of hire to the Occasional Teacher Bargaining Unit and shall continue uninterrupted thereafter.

II. The Occasional Teacher Seniority List

(a) The Occasional Teacher Bargaining Unit Seniority List shall provide, in decreasing order of seniority, the names of the Occasional Teachers, the most recent date of hire to the Occasional Teacher Bargaining Unit (seniority date), and experience.

(b) For the purpose of establishing the order of the Occasional Teacher Bargaining Unit Seniority List, where seniority is equal among two (2) or more Occasional Teachers, the tie shall be broken according to the following criteria and in the following order, based on the greater experience:

(i) Experience accrued as a member of the Occasional Teacher Bargaining Unit, defined as the total number of days worked since the most recent date of hire to the Bargaining Unit (seniority date);
(ii) Teaching experience as a certified teacher in Ontario;
(iii) Or failing that, by lot conducted in the presence of the President of the Occasional Teacher bargaining unit or designate.

(c) The Board shall provide the Occasional Teachers' Seniority list, as at September 1st of each school year, to the Bargaining Unit and shall distribute a copy of the list to each teacher worksite by Sept 30th of each school year. The Board shall post the list on the OECTA bulletin board at each work site.

III. The Hiring of Occasional Teachers in Long Term Assignments:

Subject to denominational rights enjoyed by a Separate School Board, the following shall be the process for the hiring of Occasional Teachers into Long Term assignments:

(a) A Long-Term Occasional Teacher Placement Roster shall be generated through the following processes:

i) Any Occasional Teacher having a minimum of ten (10) working months seniority and having worked a minimum of 20 days in that period from the most recent date of hire, may apply to be interviewed for placement on the Long-Term Occasional Teacher Placement Roster.

ii) Occasional Teachers who are recommended by the Board following an interview for placement on the Long-Term Occasional Teacher Placement Roster, shall be assigned to the roster.

iii) Following the interview, Occasional Teachers not placed on the roster, who make the request, shall be debriefed and recommendations shall be made to help enhance professional growth that may lead to successful placement on the roster in the future.

(b) The School Board in which the Long-Term Occasional position is needed will hire, according to Regulation 298, one of five roster Occasional Teachers who apply and most closely match the following requirements in the following order:

i) Supernumerary/Redundant teachers in order of seniority.

ii) Recognizing the aim of providing the best possible program and ensuring the safety and well-being of students, the Occasional Teacher on the Long-Term Occasional Teacher Placement Roster who holds the required qualifications for the position, as per the Education Act and Regulations (as recorded on the Ontario College of Teachers Certificate of Qualification), who has the greatest seniority.

(c) If the Occasional Teacher declines the assignment, the school board shall select from the remaining four teachers on the roster, the qualified Occasional Teacher as per (b) ii) above.

(d) In the event that no qualified Occasional Teacher on the Long-Term Occasional Teacher Placement Roster accepts the assignment or there is no qualified Occasional Teacher on the roster for the assignment, the Board shall post and fill the Long Term assignment from the Occasional Teacher Bargaining Unit List.

(e) Hire a new teacher who is not on the Occasional Teacher Bargaining Unit List.

IV. <u>The Hiring of Occasional Teachers to Permanent Teaching Positions:</u>

Subject to denominational rights enjoyed by a Separate School Board, and subject to the provisions hereafter, and subject to Regulation 298, members of the Occasional Teacher Bargaining Unit who are on the Long-Term Occasional Teacher Placement Roster will be hired into permanent teaching positions in the following manner:

(a) Occasional Teachers who have completed a minimum of one (1) Long-Term assignment that was a minimum of four (4) months in duration, and received a positive evaluation* shall be eligible to apply for any posted permanent teaching positions. All vacancies shall be posted;

(b) Recognizing the aim of providing the best possible program and ensuring the safety and well-being of students, the five (5) Occasional Teachers on the Long-Term Occasional Teacher Placement Roster, who have applied and who hold the required qualifications for the position, as per the Education Act and Regulations (as recorded on the Ontario College of Teachers Certificate of Qualification) and are most senior, shall be eligible for a Permanent Teaching position interview.

(c) The Occasional Teacher who is recommended by the Board following an interview for a Permanent Teaching position placement, shall be awarded the position.

(d) Following the interview, Occasional Teachers who are not successful and make the request, shall be debriefed and recommendations shall be made to help enhance professional growth that may lead to a successful application in the future.

* the evaluation referred to will be a templated process (greatly simplified from, and not considered equivalent to, a regular TPA) mutually agreed to by the local schools board and the local occasional teacher bargaining unit. Evaluation shall be compulsory for all Occasional Teachers in their first LTO assignment of 4 or more months duration, with any given school board. The parties to this agreement shall develop and implement a standardized occasional teacher evaluation process no later than September 1, 2013.

M. Dispute Resolution/Enforcement Mechanism

For the term of collective agreements within the scope of this MOU, a dispute pertaining solely to any of the terms or conditions specifically agreed upon at the 2012 MOU that are incorporated into a local collective agreement, with the exception of matters agreed-to through local bargaining, shall be subject to the following procedures:

Neither an OECTA local bargaining unit nor a Catholic District School Board shall have the jurisdiction to initiate or identify a dispute pertaining to the terms or conditions of this MOU. A dispute shall be identified exclusively by OCSTA or OECTA (provincial) and be limited to terms and conditions of this MOU.

Prior to utilizing the procedure below, any dispute pertaining to this MOU as described above, shall be subject to an attempt at resolution in the following manner: a) Both OCSTA and OECTA shall name a representative to attempt a mutual resolution of the dispute by attending at the local board where such dispute occurred and attempt to resolve the issue. Any resolution shall be reduced to Minutes of Settlement that shall be subject to 8 and 9 below. This attempt at resolution shall be completed within ten (10) working days of the dispute being brought to OCSTA's or OECTA's attention. If the matter is not resolved within the ten (10) day period, the matter shall be deemed to be at impasse.

In the event of impasse, the following procedure shall apply forthwith:

1. The Association and the local Board shall outline, in writing, their respective interpretations of the application of the term or condition in question.

2. Within five (5) days of the impasse, the matter shall be referred to an arbitrator for determination on an expedited and informal basis. Both OCSTA and OECTA shall agree on a list of eight (8) arbitrators who agree to function according to the process outlined in the Central PDT agreement Dispute Resolution.

   Failing mutual agreement on a list each party (OCSTA and OECTA) shall provide the Ministry of Education with a list of four (4) arbitrators.

The list of eight (8) arbitrators shall be arranged alphabetically and shall be appointed to a dispute, either by mutual agreement or by the Ministry of Education utilizing the following protocol:

(i) The list of eight (8) arbitrators shall be arranged alphabetically;

(ii) When an issue in dispute arises the arbitrators shall be approached in the order they appear on the list;

(iii) If an arbitrator approached as in (ii) above is unavailable, the next arbitrator in sequence on the list shall be approached until there is an arbitrator available;

(iv) A subsequent dispute shall be put to the arbitrator on the list directly next in line after the arbitrator who decided the last issue;

(v) The sequence above shall be repeated for each subsequent dispute.

3. Within twenty (20) days of the referral, the arbitrator shall render a decision. ***see note at end re arbitrators*

4 The arbitrator shall have all of the powers provided to arbitrators under the Ontario Labour Relations Act and the applicable local collective agreement.

5. It is understood that a hearing may take place after regular business hours in order to meet the time line stipulated.

6. Any party or person present at the discussions leading to this MOU may be called on to give evidence and is compellable, except Counsel.

7 The arbitrator shall provide a final and binding interpretation of this MOU and provide a final and binding remedy in respect of any violation or contravention of this MOU.

8. Within five (5) days of the decision being rendered it shall be circulated to all local bargaining units and boards, unless the parties agree otherwise.

9. The decision or any settlement shall be binding on all parties to all collective agreements that incorporate the terms and conditions agreed to in this MOU and incorporated into a local collective agreement for the term of the agreement.

10. The government is deemed to be a party to this process.

11. The arbitral costs of resolving any dispute shall be shared equally between the district school board in which the dispute arose and OECTA.

** *Note : the concept is to engage arbitrators who are willing to hold such hearings within the stipulated timelines by prior consultation before being included on the list of arbitrators. Pragmatically most hearings will be held after regular business hours.*

N. **Opportunity to Bargain Locally and Avoid Disruptions to Student Learning**

Effective September 1, 2012, the provisions of this MOU shall apply and supercede any related provision of any OECTA local agreement, subject to the provisions of section K of this MOU.

1. A period of local bargaining shall occur following the signing of this MOU and shall cease by December 31, 2012.

2. Any changes to local agreements, other than those specifically required by this MOU must be mutually agreed to by the Association and the local school board. Any local bargaining will not amend sections of the collective agreement amended by this MOU.

3. All clauses of the collective agreement that are not amended by this MOU or by the process identified above shall remain status quo.

4. The parties agree that for the purpose of the 2012 -2014 collective agreements all letters of intent or understanding, minutes of settlement, or any other memoranda, contained or pertaining to the 2008-2012 collective agreements, dealing with any term or condition of a collective agreement, or any other term or condition negotiated between the parties, shall continue in force and effect until renegotiated by the parties.

5. There shall be no strikes, lockouts, or applications for conciliation during the period of local bargaining.

O. **Access to Information**

1. The Government and School Boards will continue to respond to requests for information and current data, pertinent to the education sector, in a timely manner.

2. By August 15th of each school year, every school board shall collect and provide to the Ministry of Education, OECTA, and OCSTA electronic data regarding sick leave usage for all teachers during the school year. This shall be provided indicating individual teacher use and consolidated data for all teachers in the school board.

P. **Transferability of Other Agreements**

The Government acknowledges that the Roman Catholic publically funded school system will not be financially disadvantaged in any way as a result of other financial settlements reached in any other agreements, subject to the Association and School Boards fully complying with the conditions associated with this Memorandum of Understanding.

The government shall ensure that school boards consistently apply freezes to compensation costs, including wages and perquisites to all employees employed by the school boards, as set out in the letters to Directors of Education, dated April 11, 2012.

Q. Province Wide Collective Bargaining

Ontario's 2012 Budget proposed to move forward with a more centralized approach to collective bargaining in the Broader Public Sector. In keeping with the 2012 Budget, the government will begin consultations in the Fall of 2012 with the teachers' federations, support staff unions, school board trustee associations and school boards to develop the appropriate legislative and regulatory framework for provincial bargaining that would, if approved by the legislature, take effect by January 1, 2014.

R. Return to Teaching

Any vice-principal (VP) who chooses to return to the bargaining unit within 12 months of their appointment shall be permitted to do so without loss of seniority within the local bargaining unit.

The vacancy created by the VP appointment shall be filled by a permanent teacher.

The return of any VP to the bargaining unit is contingent upon there being a vacancy for which the VP is qualified.

No member of the bargaining unit shall be adversely affected due to the return of a VP to the bargaining unit.

Appendices:

1. STLDP Adjudication Process
2. Payment of Reduced Income Days
3. Letter re: Permission to Release Experience Information

For OECTA

Kevin O'Dwyer, President, OECTA

Chris Karuhanga, First Vice-President, OECTA

Marshall Jarvis, General Secretary, OECTA

For the Ministry of Education

The Honourable Laurel Broten,
Minister of Education

OTIP RAEO

Process Guide for xxx Catholic District School School Board Advice to Pay Program

Preparation Date: June 28, 2012

Effective Date of Services: xxxxxx

Manulife Financial

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ACCRONYMS, ABBREVIATIONS AND DEFINITIONS

School Board:	The xxx Catholic District School Board is referred to as School Board and is the employer.
Employee:	Individuals eligible to access the Absence Management Services (Advice to Pay) are referred to as Employee.
Union:	
APS:	Attending Physician's Statement
RTW:	Return to work
AMS:	Absence Management Services
LTD:	Long Term Disability

AMS ROLES WITHIN MANULIFE

Intake Representative:	Frontline contact that completes intake and inquiries from central phone line as well the person responsible for setting up new files and notifying School Boardof a new case set up.
Case Manager:	Health Care professional responsible for the management of the Employee's absence until resolution is achieved; serves as the primary resource for the School Board, Employee, Health Care practitioner, Union and any other individual involved in the case. Assesses and makes recommendation regarding disability taking into account contractual, medical, and functional information. Develops a case management plan and communicates will all parties on all claims issues. Develops and completes telephonic return to work plans between the School Board, Employee, Union (when requested), and physician.
Specialist:	Contact person for escalations, appeals, as well as assisting Case Managers with complex case management.
Supervisor:	Team leader that is responsible for the management of the client relationship as well as the team offering support to the client.
Program Management:	Team of individuals that are responsible for reporting, trend analysis, and subsequent program recommendations

Return to Work Specialist:	When case manager identifies need foron-site meeting between School Board and Employee, the return to work specialist conducts meeting to clarify limitations and expectations for a timely and successful return to work.
Functional Rehab Specialist:	Develops, monitors and implements innovative functionally orientated rehabilitation plans for Employee. It may involve meeting with School Board, Employee, Union, physicians or other health care professionals to implement on-site return to work plan.
Vocational Rehab Specialist:	Develops vocational rehabilitation plan with a return to work toan alternate occupation goal for Employee not able to return to work to their own occupation.

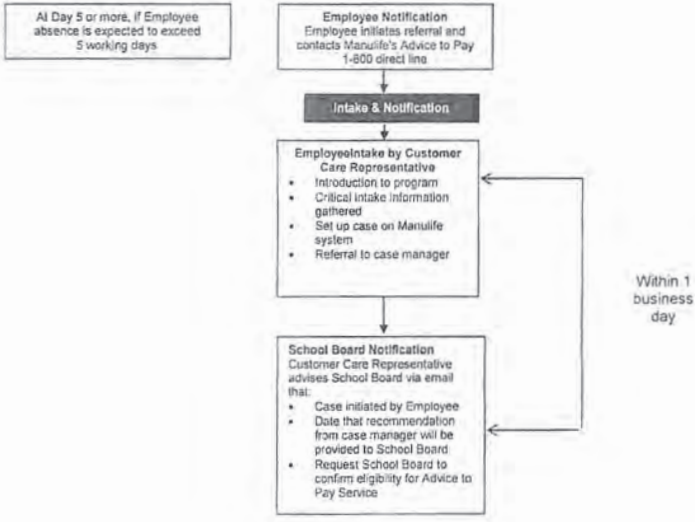
Intake and File Initiation

When to have a case referred:

- At Day 5 or more, if Employee is expecting that health related absence due to injury or illness will be extending beyond 5 working days (and the Employee has used 10 sick leave days for the school calendar year)
- The Employee may be directed by the School Board or Union to contact the Manulife AMS intake number directly when they are absent from work.
- When an Employee is requesting to access the AMS program as a result of a health related absence, the employee will be provided with a toll-free number to speak with an Manulife AMSCustomer Care Representative. A representative is available during regular business hours (8 a.m. to 6 pm).
- Intake includes:
  The Manulife AMS Customer Care Representative receiving the call will validate, collect and record the following information from the employee:
  - Employee Name
  - Date of Birth
  - Social Insurance Number
  - School Board
  - Union
  - First day off work
  - How long has current absence been so far?
  - Expected return-to-work date
  - Other absences prior to the current absence?
  - Reason for current absence and current symptoms
  - Do they expect to be meeting with their physician/medical professional?
  - Employee's telephone contact number and email address (if available)
  - School Board contact information (may not require this step if we have contact listings by School Board)
  - Union contact information

- The Manulife AMS Customer Care Representative also provides a brief explanation of program and next steps that include a case manager contacting the Employee as part of assessment phase

Phase 1 – Advice to Pay Intake and Notification Initiation Process



Initial Interview, Claim Assessment and Recommendation

Initial Interview and Claim Assessment

The assessment phase is completed by case managers who are healthcare professionals (ie nursing, physiotherapists, occupational health, psychiatric nursing, kinesiologists, chiropractor). Other resources accessed during this phase and early intervention include medical consultants that support the Advice to Pay program related to medical specialties such as Occupational Health, Psychiatry, Cardiac, Internal Medicine.

The assessment of an Advice to Pay claim includes:

1. A review of intake information.
2. Obtaining Employee's consent to proceed with assessment discussion.
3. A telephone interview with the Employee within 3 business days of intake.
4. A telephone interview with the School Board to clarify details of the essential duties of the Employee's occupation and any other workplace information pertinent to the absence within 3 business days of intake.
5. Obtaining additional medical such as Attending Physician's Statement or medical report depending on nature of health condition.
6. Completion of assessment based on Best Practice Adjudication Integrity and evidence based medical guidelines. A more detailed explanation of this includes:

   Our Case Management program applies five 'best practice' standards that act as guiding principles in managing short term absences and applying the philosophy of managing the health recovery for the whole person. The standards used for each case include:

   - Evidence-based – Using documented disability medical guidelines evidence (eg. Presley Reed MDA guidelines) evidence to confirm the presence of an impairment and to confirm the application of appropriate treatment for a given diagnosis.
   - Functionality – Looking at what the employee is capable of doing and comparing that level of function to the physical or cognitive demands of the job. This analysis allows the Case Manager to plan the return to work and make accommodation recommendations within the employee's level of function.
   - Multi-disciplinary – Engaging all key parties at the appropriate time. This includes contacting the employee, School Board, treating physician and/or health care practitioners to align the employee's safe level of function with job demands or planned accommodations.
   - Timeliness – This standard ensures consistent delivery of timely best practices applicable to service level commitments and appropriate follow up action aligning to case management intervention with the goal of ensuring a safe and timely return to work.

- Rights-Based – Ensures that employee privacy and confidentiality are maintained and that decisions are compliant with laws governing human rights, employment standards, labour relations and collective agreements.

Advice to Pay Recommendation

A recommendation will be provided within 3 working days from the date Manulife receives referral from Employee.

The recommendation is given verbally to the Employee as well as to the School Board. A memo with our recommendation is sent to the School Boardand Union by email. The School Board will advise the Employee of salary payment.

The Manulife Case Manager will make recommendations to the Employee in regards to expected duration of absence, when the next medical update is required, discussion regarding necessary tools to address barriers, Return to Work planning and required accommodations if applicable. The case manager will also indicate when the next telephonic touchpoint will take place. Furthermore, the status of the file will be shared with the Employee.

Communication with the School Board is in line with the above but will omit discussion of the medical condition and/or treatment.

If an absence is non-supported, more detailed information will be given to the Employee as to options available to him/her. If the Employee claims the medical condition is the barrier to a Return to Work, the appeal option will be offered (see section below).

Phase 2 – AMSAssessment&Recommendation

Non-Supported Absences

If the Case Manager determines that the absence is not medically supported but the Employee does not plan to return to work because of non-medical reasons, the Case Manager will inform the School Board and Employee verbally. In addition to this, the Employee will receive written confirmation outlining rationale for recommendation as well as the appeal process in writing. The School Board and Union will receive the same information excluding any medical details. Please refer to the Appeal Process outlined later in this document (Page 10).

Case Management

Case Management is initiated once a recommendation has been made. The level of case management intervention is based on the complexity of the health related absence. This is based on the philosophy of providing the right skill and intervention at the appropriate time. The various types of intervention begin with an assessment of the complexity of the absence. It is also based on the treatment or lack of treatment that an employee is receiving. These are referred to as Early Intervention Cases, Non-Complex Cases and Complex Case Management. The criteria for these three categories are noted below.

Early Intervention

- If OTIP is LTD provider, referral to OTIP's Early Intervention Rehabilitation Consultant for contact and assessment

Non-Complex Case Management

- Recovery is within the expected health recovery period as determined by Best Practice medical guidelines
- One diagnosis

Complex Case Management

- Multiple Diagnosis
- Mental Health Diagnosis
- Injuries resulting from a Motor Vehicle Accident (MVA)
- Workplace Illness / Injuries
- Absence exceeds the expected health recovery period optimum by 2 weeks or greater
- Absence that reaches 6 weeks without plan for full-time return to work by the 8th Week
- Extension request beyond 7 days beyond planned return-to-work date
- Employee does not have access to appropriate or timely medical care (Treatment/Surgery/Specialist)
- Recurrence of disability

Critical Elements of early intervention and case management that align with Best Practices Disability Management and Evidence Based Medical guidelines are:

a. Early Intervention – Treatment Facilitation
b. Focus on functional ability – Return to Work planning, Rehabilitation and Work Facilitation
c. Facilitated communication among all key parties
d. Needs of all involved parties are addressed
e. Development of realistic and goal oriented return to work plans

Treatment Facilitation:

OTIP/Manulife are responsible for the core services of treatment facilitation services in case management on all cases. When specialized tasks outside of these core services are required to move a case toward resolution, the case managers may access an external certified vendor.

At any time during an absence the case manager may also utilize additional resources such as:

- Medical consultant review
- Independent medical examination
- Peer to peer correspondence with the treatment provider
- Functional Evaluation Capacities
- Cognitive behavioural therapy
- Cancer navigation (Wellspring, CAREpath)
- Industrial psychologists
- Vocational retraining
- Work hardening
- Transferable skills analysis

Return to Work Planning

This intervention level is completed telephonically by the Case Manager. In the majority of cases, all of the assessment, recommendations, treatment interventions and return to work planning is completed by the case manager. In some cases (approximately 10%) there is a need for on-site support rehabilitation or work facilitation during the short term absence period. This is described in more detail below.

Return to Work Facilitation

When identified as a need for on-site support by the case manager and agreed to by the School Board and Employee, the Return to Work (RTW) Specialist manages on-sitereturn-to-work activity. The RTW specialist acts as a coordinator so all interested and affected parties (Employee, School Board and Union; physician as necessary) are appropriately involved and informed about the goal-directed, time-specific return to work plan, work accommodation requirements, plan progress, and expected outcomes.

Functional Rehabilitation

The Functional Rehabilitation Specialist engages in longer-term intervention requiring a series of meetings with the Employee, School Board, and relevant health care providers to identify and then resolve functional impairments in order to enable the member's return to work. The Functional Rehabilitation Specialist may incorporate:

- Assessment of medical information to determine cognitive or physical function.
- Determination of return to work barriers.
- Evaluation of worksite ergonomics (workstation set-up, production sequencing).

- Facilitation of treatment, identifying treatment options and facilitation referrals to health care providers when appropriate to confirm medical impairment, to promote recovery of health or to improve function.

Vocational Rehabilitation

This type of rehabilitation supports a disabled member who is unable to return to a pre-disability job or another job with the original School Board. The Vocational Rehabilitation Specialist works with the disabled Employee to identify potential job opportunities appropriate to the employee's functional capacity, education, training and experience, has access to a network of specialized vocational evaluation resources to test the employee's aptitudes, personality etc. and provides services such as resume preparation, job search straining and volunteer program placement to prepare the employee for labour market re-entry.

Appeal Process

When a claim is not supported or no longer supported for medical reasons, the right of appeal is offered to the Employee. The process includes:

Employee Communication: The employeeis contacted verbally by the Case Manager and also receives a letter from the Case Manager advising of this right. The letter will include an explanation of the rationale behind the decision and will outline any additional information that should be submitted should the employee wish to appeal. It also outlines the timelines to have the appeal information sent back to the Case Manager (normally 10 business days) unless there are extenuating circumstances that the employee has discussed with the case manager.

School Board and Union Communication: The School Board and Union are contacted verbally by the Case Manager. Both the School Board and the Union receive a copy of the letter sent to the Employee (excluding the medical details). The letter includes an explanation of the rationale behind the non-support recommendation, outlines any additional information that should be submitted if there is an appeal as well as timelines that the Employee has to submit the appeal.

Upon receipt of the appeal from the Employee, OTIP and Manulife have a unique appeal process. This includes a first and second appeal (when required).

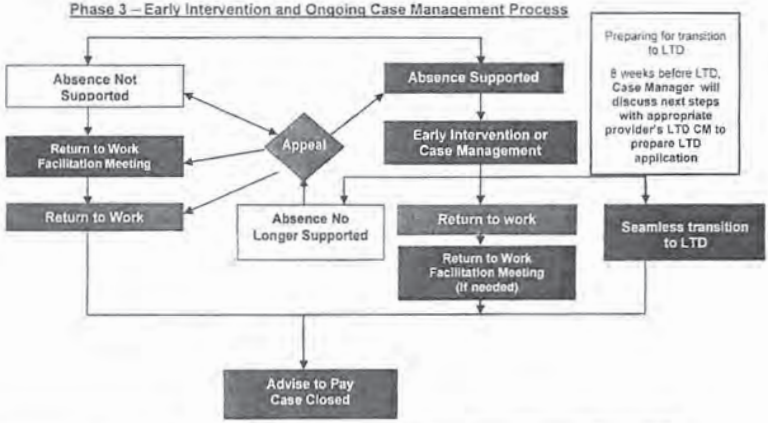
The purpose of an appeal is to provide an objective review of the information on file and the original claim recommendation. For the first appeal, the Manulife Operations Specialist, who is independent of the claims assessment process and the School Board, reviews the claim file and recommendation. The Specialist reviews all new medical information provided on appeal and if required, may need to fully investigate the claim by writing to the Employee's doctors or setting up an independent medical assessment.

Upon completion of receiving all information, the Specialist will communicate results of the appeal to the School Board and the Employee both verbally and in writing within 5 business days of receiving all information required for appeal. The Union is copied in on written communication as well. If the decision is to maintain the non-support recommendation, the

Employee, the School Board and Union are notified of the timeline for the next appeal as well as the rationale for the decision and any outstanding information.

Should a second appeal be requested, the appeal is sent to an appeal committee who makes the final appeal recommendation/decision. The appeal committee is represented by a blend of the Manulife Operations Supervisor, medical consultant and OTIP Appeal Specialist that are independent of the School Board and claims assessment process and would be responsible for rendering the decision.

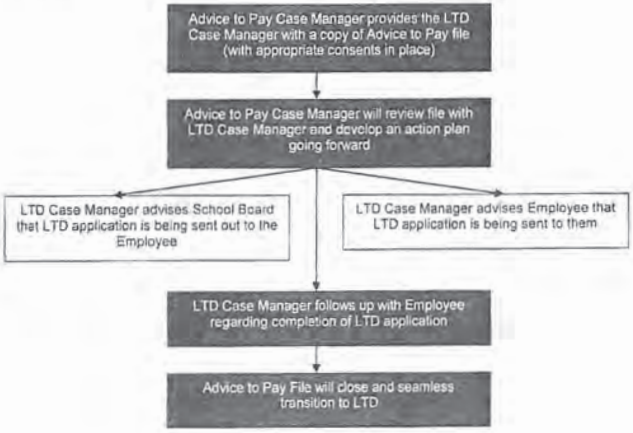
Phase 3 – Early Intervention and Ongoing Case Management Process



Advise to Pay Transition to Long Term Disability

When the continuum of care warrants a full transition to LTD we have a strict protocol for review, at no later than mid-way in the benefit period, of all short-term cases with the School Board's LTD provider's Case Manager to ensure that the claim as well as the Employee is prepared in the event that the absence extends into LTD. Specific attention to ongoing communication with the employee also supports an elimination of late filed LTD claims. We realize that an Employee is concerned about return to health and assurance of income replacement while disabled. As such, we ensure that, for claims that qualify, our claims administration processes support an easy transition to LTD, and for those claims that will not qualify for LTD, we provide early notification to the Employee and the School Board, while continuing to manage the case to resolution. Having this smooth transition and hand off from Advice to Pay to the School Board's LTD provider's case manager will eliminate the filing of a late LTD claim and the delay in LTD notification.

Transition to Long Term Disability



Confidentiality

Manulife Financial's Privacy Policy, which includes information on how and why Manulife collects, uses, maintains and discloses personal information is available on Manulife Financial's website: www.manulife.ca.

Payment of Reduced Income Days

When a teacher is absent for more than ten days in a school year all reductions in pay shall be calculated as follows.

A) Days paid at 90%

A day paid at 90% salary for a day shall be calculated as a deduction from salary based on

Grid salary x 1/194 x 10% = deduction for one day.

Any deduction is to be made in full from the next pay period.

e.g. TECT A4 max is $94682.00 x1/194x10%=$48.80

Teacher is absent for six days beyond the ten 100% paid days, the subsequent pay would be reduced by $292.80.

B) Days paid at 66 2/3%

A day paid at **66 2/3%** salary for a day shall be calculated as a deduction from salary based on

Grid salary x 1/194 x 33 1/3%= deduction for one day.

Any deduction is to be made in full from the next pay period

e.g. TECT A4 max is $94682.00 x1/194 x 33 1/3%=$162.68

Teacher is absent for four days beyond the ten 100% paid days, the subsequent pay would be reduced by $650.72.

DRAFT FOR LONG TERM DISABILITY REVIEW

PERMISSION TO RELEASE EXPERIENCE INFORMATION

The following is to be typed on the Policyholder's Letterhead.

Insurance Carrier
Address of
Present Carrier

Date

Subject: Group Name and Policy Number(s)

This letter authorizes the release of the following plan information for our group to OTIP (Ontario Teachers Insurance Plan).

Specifically, please forward:

1. **Copy of current contract** (or booklet if contract not available). Please include a history of plan amendments within the last three to five years.

2. **Premiums and claims experience** separated by year for the past three to five years for the LTD benefit. Indication of whether PST is included or excluded from premium provided as well as indication of any external consulting fees included in the premium.

3. **Premium rate history and basis** (% of insured salary or per $100) including effective dates coinciding with the premium and claims experience stated in 2. The rate history should include the reason for change:

   a) Due to renewal
   b) Due to change in plan design

4. **Census data** that includes for each employee date of birth, gender, salary, volumes of LTD insurance, employee class, employment status and indication of waived coverage. This should include members who are on leave that are continuing LTD coverage.

5. **Current listing of disabled members** that includes the employees date of disability, date of benefit commencement, date of birth, gender, salary, volume of insurance, claim status, termination date and employment status.

6. **Indication of whether the LTD benefit is mandatory or voluntary.**

7. **Indication of current premium share arrangements (taxable or non-taxable).**

8. **Most recent financial statement** outlining the financial position including any reserve values (claims fluctuation reserves and incurred but not reported reserves) and funds on deposit in excess of required reserve amounts.

9. **A summary description of the claim handling process at the board**

   a. Who provides claim kits
   b. Are completed claims kits sent directly to carrier by claimant or required to be returned to board and board forwards to carrier.

10. **A summary description of process to identify potential LTD claimants and whether early intervention rehabilitstion services are provided / available.**

11. **A summary description of LTD continuation during a leave of absence.**
    a. Are members allowed to suspend / continue coverage
    b. Are premiums billed and collected by board or paid direct to carrier

12. **A summary description of return to work process from board's perspective.**

This information is to be sent to:

Vic Medland
President Group Insurance Services,
OTIP
P.O. Box 218, 125 Northfield Drive West
Waterloo, ON N2J 3Z9

Thank you for your cooperation and assistance.

Sincerely,

_____ _____

Name Title

MEMORANDUM OF UNDERSTANDING, dated July 5, 2012 between the Ministry of Education and the Ontario English Catholic Teachers Association-UPDATE

MAY 16, 2013

Further to the OECTA Memorandum of Understanding, dated July 5, 2012 (OECTA MOU) and its Appendix P, Transferability of Other Agreements, and given the OSSTF MOU, the Government recognizes it is appropriate and advisable that the OECTA MOU be updated.

The government will make every effort to ensure that the changes to the OECTA MOU set out below are implemented by the school boards, and will take measures to support that outcome, including:

A) recommending to Cabinet that the matching amendments be made to the regulation under the Education Act dealing with Sick Leave Credits and Gratuities, and

B) making every effort to ensure that:

1. The changes shall be appended without amendment to, and form part of, the existing local collective agreements;

2. For the changes noted as needing local discussions about implementation, those discussions will commence immediately and must conclude by June 28, 2013; as follows:

    I. Local discussions cannot be inconsistent with the terms contained in the OECTA MOU and these changes or associated regulations and legislation;

    II. Prior to the first local implementation discussions meeting, the Parties shall disclose to each other the local implementation issues for consideration;

    III. There shall be a minimum of two and no more than six full-days of local implementation discussions for each bargaining unit. Such time requirements may be altered with mutual consent;

    IV. At any point in the process, a request may be made by either Party for mediation assistance from the Ministry of Labour.

Maternity Benefits

Effective May 1, 2013, the following enhanced maternity benefits replace the maternity benefits under the OECTA MOU.

A teacher who was previously entitled to maternity benefits under the 2008-2012 collective agreement will continue to be entitled to these benefits. In addition, the benefits are also available to:

- Teachers hired in a term position or filling a long-term assignment, with the length of the benefit limited by the term of the assignment

Teachers on daily casual assignments are not entitled to maternity benefits.

Eligible teachers on pregnancy leave shall receive a 100% salary through a Supplemental Employment Benefit (SEB) plan for a total of not less than eight (8) weeks immediately following the birth of her child, subject to provisions in the 2008-2012 collective agreement, but with no deduction from sick leave or the Short Term Leave Disability Program (STLDP).

Teachers not eligible for a SEB plan will receive 100% of salary from the employer for a total of not less than eight (8) weeks with no deduction from sick leave or STLDP.

For clarity, for any part of the eight (8) weeks that falls during a period of time that is not paid (ie: summer, March Break, etc), the remainder of the eight (8) weeks of top up shall be payable after that period of time.

Teachers who require a longer than eight(8) week recuperation period shall have access to sick leave and the STDLP through the normal adjudication process.

For clarity the aforementioned eight (8) weeks of 100% salary is the minimum for all eligible teachers, but where superior entitlements exist in the 2008-2012 Collective Agreement, those superior provisions shall apply.

Notwithstanding the above, where a bargaining unit so elects, the SEB or salary replacement plan noted above will be altered to include six (6) weeks at 100%, subject to the aforementioned rules and conditions, plus meshing with any superior entitlements to maternity benefits contained in the 2008-2012 collective agreement. For example, a 2008-2012 Collective Agreement that includes 17 weeks at 90% pay would result in 6 weeks at 100% pay and an additional 11 weeks at 90%.

Voluntary Unpaid Leave of Absence Program For All Bargaining Units

This provision shall be added to the MOU and be the subject of local implementation discussions between the bargaining unit and the school board.

1. In order to provide potential financial savings to the Board, a Voluntary Unpaid Leave of Absence Program (VLAP) shall be established for all OECTA bargaining units effective May 1, 2013.

2. Teachers may apply for up to five (5) unpaid leave of absence days for personal reasons in each year of the Collective Agreement.

3. Requests for unpaid days shall not be denied provided that, if necessary, there are expected to be enough available casual staff to cover for absent teachers, and subject to reasonable system and school requirements.

4. For voluntary unpaid leave days, which are scheduled in advance for the 2013-2014 school year, the salary deduction will be equalized over the pay periods of the 2013-14 school year provided the requests are made in writing by May 31, 2013.

5. It is understood that teachers taking a voluntary unpaid leave day shall be required to provide appropriate work for each of their classes and other regular teaching and assessment responsibilities including but not limited to preparation of report cards and exams.

6. Requests for voluntary unpaid leave of absence days will not normally include the first week following the start of each semester (other than an August PD day), the week prior to the start of exams, and the exam period.

7. Voluntary unpaid leaves shall be reported as approved leaves of absence for the purposes of the Ontario Teachers' Pension Plan and OMERS.

8. The Board will report unpaid VLAP days to each OECTA Bargaining Unit based on the names of applicants and the total approvals on a monthly basis.

9. All net savings achieved by the Board as a result of VLAP days being utilized shall be applied to Offsetting Measures below.

Unpaid Days and Offsetting Measures for Teacher Bargaining Units

This provision shall be added to the MOU and be the subject of local implementation discussions between the bargaining unit and the school board.

All permanent regular day school members of a teacher bargaining unit will be required to take one (1) mandatory unpaid day on Friday December 20, 2013.

The following cost savings measures will be implemented:

1. Voluntary Unpaid Leave of Absence Program

2. Efficiencies in the delivery of professional development for the Oct 11, 2013 PD day will be used to provide funding for offsetting measures equivalent to 16% of the cost of an unpaid day. Further, this PD day will be a day reserved for the delivery of Ministry priorities.

3. An Early Retirement Incentive Plan (ERIP) will be introduced in the event that the savings in #1 and #2 are not projected to provide sufficient cost recovery for one unpaid day across the Bargaining Unit.

   If the necessary savings are achieved in #1 and #2 the Board may choose to implement the ERIP program at its discretion.

   The ERIP shall be in the form of a $5000 payment to any teacher who retires between the end of November 2013 and the last day of Semester 1.

   The Board shall give notice of the implementation of the ERIP no later than November 30, 2013.

   Any requirements for notification periods for retirement or specific retirement dates shall be waived in the 2013-2014 school year. A minimum two week retirement notice period shall be provided to boards in the open period from November 30, 2013 to the last day of Semester 1 in the 2013-2014 school year.

4. Any other cost savings measures agreed to by Bargaining Unit and the Board.

The offsetting measures noted above shall only apply for the 2012/2013 and 2013/2014 school years.

All permanent regular day school members of a teacher bargaining unit will be required to take a further unpaid day on Friday March 7, 2014 if the above measures do not achieve sufficient savings at least equal to the value of one day's pay across the Bargaining Unit.

In the event that cost-savings measures achieve savings in excess of those required to offset unpaid days, such savings shall be retained by the Board.

Any member of OECTA who is not a regular permanent day school teacher shall not be required to take unpaid days.

Reconciliation For Teacher Bargaining Units

This provision shall be added to the MOU and be the subject of local implementation discussions between the bargaining unit and the school board.

A reconciliation committee will be created with equal representation from the Board and the Bargaining Unit.

The committee will meet monthly starting in June 2013to track targeted savings and expenditures. The cost of the ERIP shall be deducted from savings. All relevant information required to monitor and administer the reconciliation shall be fully shared between the parties.

In the event that by November 30, 2013, savings are not on target to meet the financial goal equivalent to at least one (1) unpaid day, the ERIP program will be implemented. In the event of a dispute between the Board and Bargaining Unit about the financial necessity for an ERIP, the Board may choose not to offer the ERIP program. However, in the event that the financial savings for the cost recovery for the unpaid day are not subsequently achieved, the permanent teachers shall not be required to take an unpaid day on March 7, 2014.

Attendance Recognition

A Shared Savings Initiative (SSI) shall be established in every bargaining unit. The SSI shall operate as follows:

Individual member sick leave usage for the 2013-2014 school year shall be as per the definition for sick leave in the 2008-2012 collective agreement and shall be determined as of June 30, 2014.

If a permanent regular day school teacher bargaining unit member's usage is below six (6) full days of his/her days' absence then the member shall receive a payment equivalent to his/her daily rate. Annual compensation is not to exceed what would have been paid in the absence of unpaid days.

For OECTA members, other than permanent regular day school teachers, the payment shall be equal to a member's regular daily rate of pay and shall be contingent upon the member having taken a VLAP day during the term of this collective agreement.

The payment shall be made at the earliest opportunity following June 30, 2014.

Sick Leave/Short Term Sick Leave and Disability Plan – Election and Optional Plan

The MOU, in respect of Short Term Leave and Disability Plan, is to be changed as follows:

A. Addition:

Short-Term Leave and Disability Plan Top-up (STLDPT)

Note: The parties concur that STDLPT 1 refers solely to topping up from 90% to 100%.

1. For teacher absences that extend beyond the eleven (11) sick leave days, teachers will have access to a sick leave top up for the purpose of topping up salary to one hundred percent (100%) under the Short Term Leave and Disability Plan.

   This top up is calculated as follows:

   Eleven (11) days less the number of sick days used in the prior year.

2. In 2012-13, the transition year, each teacher shall begin the year with two (2) days in the top-up bank.

3. In addition to the top-up bank, compassionate leave top-up may be considered at the discretion of the board. The compassionate leave top-up will not exceed two (2) days and is dependent on having two (2) unused leave days in the current year. These days can be used to top-up salary under the STLDP.

4. When teachers use any part of a short term sick leave day they may access their top-up bank to top up their salary to 100%.

B. Deletion of Article 3 (a), (b) and (c) of Section D Occasional Teachers on Long Term Assignments and insertion of the following:

1. A member of OECTA employed by a board to fill a long-term teaching assignment that is a full year shall be eligible for the following sick leave credits during a board's fiscal year, allocated at the commencement of the long-term assignment:

   1. Eleven (11) days of Sick Leave paid at 100% of regular salary.

   2. Sixty (60) days per year of Short Term Sick Leave paid at 90% of regular salary.

2. A member of OECTA who is employed by a board to fill a long-term teaching assignment that is less than a full year shall be eligible for eleven (11) days of Sick Leave and sixty (60) days of Short Term Sick Leave as per section 15, reduced to reflect the proportion the assignment bears to the length of the regular work year, and allocated at the start of the assignment.

While the existing OECTA sick leave plan in the 2012 MOU is the default plan for all OECTA bargaining units, following consultation with the school board about timing, transition and implementation and where a bargaining unit so elects in writing prior to June 1, 2013, the sick leave plan set out below shall apply no later than September 1, 2013. Once made, this election cannot be revoked during the term of the current collective agreement. The sick leave plan shall be the subject of collective bargaining for the next collective agreement.

Sick leave/Short Term Sick Leave and Disability Plan which can be subject of an election

Sick Leave Days

1. A teacher who was previously entitled to sick leave under the 2008-2012 collective agreement will be entitled to this sick leave plan. In addition the sick leave is also available to:

    - Teachers hired in a term position or filling a long-term assignment, with the length of the sick leave limited by the term of the assignment.

2. Each school year, a teacher shall be paid 100 % of regular salary for up to eleven (11) days of absence due to illness. Illness shall be defined as per the 2008-12 local collective agreement. Part-time teachers shall be paid 100% of their regular salary (as per their full-time equivalent status) for up to eleven (11) days of absence due to illness. Such days shall be granted on September 1 each year, or on the teacher's first work day of the school year, provided the teacher is actively at work and shall not accumulate from year-to-year.

3. Where a teacher is absent due to sickness or injury on his or her first work day in a fiscal year, a sick leave credit may only be used in respect of that day in accordance with the following:

    a) If, on the last work day in the previous fiscal year, the teacher used a sick leave credit due to the same sickness or injury that requires the teacher to be absent on the first work day in the current fiscal year,
        i. the teacher may not use a sick leave credit provided for the current fiscal year in respect of the first work day, and
        ii. the teacher may use any unused sick leave credits provided for the immediately preceding fiscal year in respect of the first work day.

b) If 3 a) does not apply, the teacher may use a sick leave credit provided for the current fiscal year in respect of the first work day if, for the purpose of providing proof of the sickness or injury, the teacher submits,
   i. the information specified for that purpose in the teacher's collective agreement, or
   ii. if such information is not specified in the collective agreement, the information specified for that purpose under a policy of the board, as it existed on August 31, 2012.

c) If a teacher is absent due to sickness or injury on his or her first work day in a fiscal year, section 3a) and b) also applies in respect of any work day immediately following the teacher's first work day until the teacher returns to work in accordance with the terms of employment.

d) For greater certainty, the references in section 3a), b) and c) to a sickness or injury include a sickness or injury of a person other than the teacher if, pursuant to the definition of illness in section 2, the teacher is entitled to use a sick leave credit in respect of a day on which the other person is sick or injured.

e) A partial sick leave credit or short term sick leave credit will be deducted for an absence due to illness for a partial day.
   i. However, WSIB and LTD providers are first payors. In cases where the teacher is returning to work from an absence funded through WSIB or LTD, the return to work protocols inherent in the WSIB/LTD shall take precedence.

4. Any leave of absence in the 2008-12 Collective Agreement, that utilizes deduction from sick leave, for reasons other than personal illness shall be granted without loss of salary or deduction from sick leave, to a maximum of five (5) days per school year. Local collective agreements that currently have less than five (5) days shall remain at that number. Local collective agreements that have more than five (5) days shall be limited to five (5) days. These days shall not be used for the purpose of sick leave nor shall they be accumulated from year-to-year.

5. For the purposes of section 2, if a teacher of a board is only employed to work for part of a year, the teacher's eligibility for sick leave credits shall be reduced in accordance with the policy of the board, as it existed on August 31, 2012. If hired after the beginning of the fiscal year, a full-time teacher is entitled to the full allocation of sick leave credits as per sections 2 and 8.

6. The Board shall be responsible for any costs related to third party assessments required by the Board to comply with the Attendance Support Program. For clarity, current practices with respect to the payment for medical notes will continue.

7. The Parties agree to continue to cooperate in the implementation and administration of early intervention and return to work processes.

Short Term Sick Leave

8. Each school year, a teacher absent beyond the eleven (11) sick leave days paid at 100% of salary, as noted in section 2 above, shall be entitled up to an additional one hundred and twenty (120) days short term sick leave to be paid at a rate of 90 per cent of the teacher's regular salary if the teacher is absent due to personal illness including medical appointments and as per the board adjudication processes in place as of August 31, 2012.

9. Short-Term Sick Leave days under the Short-Term Leave and Disability (STLDP) shall be treated as traditional sick leave days for personal illness including medical appointments.

10. The Board's Disability Management Teams shall determine eligibility for the Short-Term Leave and Disability Plan (STLDP) subject to the terms and conditions of the 2008-2012 collective agreement and/or board policies, procedures and practices in place during the 2011-2012 school year.

Short-Term Leave and Disability Plan Top-up (STLDPT)

11. For teacher absences that extend beyond the eleven (11) sick leave days, teachers will have access to a sick leave top up for the purpose of topping up salary to one hundred percent (100%) under the Short Term Leave and Disability Plan.

    This top up is calculated as follows:
    - Eleven (11) days less the number of sick days used in the prior year.

12. In 2012-13, the transition year, each teacher shall begin the year with two (2) days in the top-up bank.

13. In addition to the top-up bank, compassionate leave top-up may be considered at the discretion of the board. The compassionate leave top-up will not exceed two (2) days and is dependent on having two (2) unused leave days in the current year. These days can be used to top-up salary under the STLDP.

14. When teachers use any part of a short term sick leave day they may access their top-up bank to top up their salary to 100%.

Long Term Assignments

15. A member of OECTA employed by a board to fill a long-term teaching assignment that is a full year shall be eligible for the following sick leave credits during a board's fiscal year, allocated at the commencement of the long-term assignment:

    1. Eleven (11) days of Sick Leave paid at 100% of regular salary.
    2. Sixty (60) days per year of Short Term Sick Leave paid at 90% of regular salary.

16. A member of OECTA who is employed by a board to fill a long-term teaching assignment that is less than a full year shall be eligible for eleven (11) days of Sick Leave and sixty (60) days of Short Term Sick Leave as per section 15, reduced to reflect the proportion the assignment bears to the length of the regular work year, and allocated at the start of the assignment.

17. A long term assignment shall be as defined in the 2008-2012 collective agreement. Where no such definition exists, a long term assignment will be defined as twelve (12) days of continuous employment in one assignment.

Non-Vested Retirement Gratuity For Teachers

This provision shall be added to the MOU

The minimum years of service for retirement gratuity shall be defined as the lesser of the contractual minimal service requirement in the 2008-2012 collective agreement, or ten (10) years.

Those teachers with less than the minimum number of years of service shall have that entitlement frozen as of August 31, 2012. These teachers shall be entitled to a Gratuity Wind-Up Payment calculated as the lesser of the board's existing amount calculated under the board's collective agreement as of August 31, 2012 (or board policy as of that date) or the following formula:

$$\frac{X}{30} \times \frac{Y}{200} \times \frac{Z}{4} = \text{Gratuity Wind-Up Payment}$$

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)

For clarity, X, Y, and Z shall be as defined in the 2008-2012 collective agreement or as per policy or practice of the board for retirement gratuity purposes.

The Gratuity Wind-Up Payment shall be paid to each teacher by the end of the school year.

The pay-out for those who have vested Retirement Gratuities shall be as per ONT. REG. 2/13 and 12/13 made under the PUTTING STUDENTS FIRST ACT, 2012 and ONT. REG. 1/13 and 11/13 made under the EDUCATION ACT.

Also, the Ministry of Education shall provide a letter to OECTA setting out the understanding about a Provincial Benefit Plan set out below. This does not involve implementation at the school board level.

Provincial Benefits Plan

The Government, and in particular the Ministry of Finance, commits to a full discussion with OECTA about the establishment of a provincial benefits plan.

The province agrees to provide funding which will include administration costs, legal costs, and costs of experts needed to undertake any studies and research required.

Also, the government shall issue a memo to school boards providing clarifications of the OECTA MOU as set out below, effective date September 1, 2012.

Memo - Clarifications to 2012 MOU

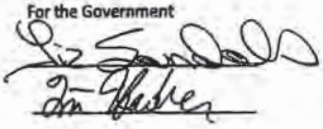
Issue	Clarifications
1. Use of Sick Leave (11 + up to 5 Days)	• Illness is defined as per the 2008-12 school board collective agreements for the use of these days. • Board practices and policies from 2008-12 would also apply to the definition of illness, for example, the practice or policy on medical procedures not covered by OHIP. • For clarity, definitions and practices in place in accordance with the 2008-12 period cannot be changed.
2. Adjudication	• Boards are required to retroactively top-up the teacher's salary from 66.67% to 90% where the absence is supported through adjudication. The adjudication process should be applied as soon as possible once it is determined that the illness will require an absence of 5 consecutive work days or more or that the illness is chronic in nature. • The process for teachers should be well documented and communicated and service standards must be in place.
3. Partial Days	• The 11 + 120 sick days are divisible and boards should deduct a partial day for a partial day's absence. • Top up of sick days for graduated return to work days are as per the current practice under OECTA's collective agreements
4. WSIB	• Teacher awaiting WSIB claim adjudication would be paid 100 percent of regular salary for the first 11 days (assuming that the teacher had not previously taken sick days); and 66.67 percent of regular salary for the remaining (up to 120) days during the waiting period • If the board has not done this, it shall be adjusted retroactively.
5. WSIB/LTD	• WSIB and LTD are separate and distinct from STLDP. If a teacher's claim is not successful under WSIB or LTD, it does not preclude the teacher from receiving STLDP. • Should the WSIB or LTD claim not be successful, the teacher could request adjudication through the board's third party adjudication process; if this claim is successful, then the teacher could qualify for the 90 percent rate applied retroactively. If the adjudication process does not support 90% salary, the teacher receives 66.67% of salary.
6. Maternity Leave	• Boards are to provide a minimum of 6 full weeks of maternity benefits including over "non-paid" periods.

Issue	Clarifications
7. Maternity Leave	• When a teacher is eligible to receive EI benefits under the maternity plan, the maternity benefits will be administered as a SEB plan. • When a teacher is not eligible to receive EI benefits, the maternity benefits will be paid at 100% salary for the period.
8. Maternity Benefits	• Boards shall provide short-term sick leave before or after the maternity leave when medical evidence is provided in accordance with the practices in place during the 2008-2012 collective agreement.
9. Benefits	• Benefit levels and practices are to be status-quo in accordance with Section E of the OECTA MOU. • Benefit Surpluses are subject to Section E of the OECTA MOU.
10. Grid - Qualifications	• Boards who have provisions in their collective agreement that apply grid movements retroactively, for example, to Jan 1st, would apply the change on the 97th day (the delay in this instance is calculated from the start of the school year).
11. Local Bargaining	• MOUs were imbedded in to the collective agreement through the imposition of the PSFA. • The 2012-14 OECTA collective agreements consist of: o MOU between the Ministry and OECTA dated July 5, 2012, including enhancements o 2008-12 collective agreement, modified, as applicable, by Minister approved amendments, with the exception of those 2008-12 provisions that do not agree with the OECTA MOU or supporting legislation and regulations.
12. Top-up Days	• Irrespective of adjudication the top-up days may be accessed to top-up from 90% to 100%.
13. Disclosure of Information	• Dates of disclosure must be clear. The government will ensure that school boards meet reporting timelines and that information will be sent to the Association as soon as possible.
14. Letters of intent or understanding, minutes of settlement, etc. pertaining to the 2008-12 collective agreement remain in effect.	• All letters of intent, understanding, minutes of settlement or any other memoranda, contained in or pertaining to the 2008-12 collective agreements, dealing with any term or condition of a collective agreement or any other term or condition negotiated between the parties, shall continue in force and effect until negotiated by the parties.

Dated this 17th day of May, 2013, Toronto, Ontario

For the Union

For the Government



MEMORANDUM OF SETTLEMENT

BETWEEN:

DUFFERIN-PEEL CATHOLIC DISTRICT SCHOOL BOARD
(hereinafter called "the Board")

-AND-

THE ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION
(O.E.C.T.A.)

REPRESENTING THE SECONDARY SCHOOL TEACHERS EMPLOYED BY THE BOARD
(hereinafter called the "Dufferin-Peel Secondary Unit")

WHEREAS it is the common goal of the Board and the Dufferin-Peel Secondary Unit to provide the best possible Catholic education for the children of this community:

AND WHEREAS, to achieve that common goal, it is essential that the Board and the Teachers maintain the harmonious relationships which exist between them.

In accordance with Article 2.010 of the Secondary Teacher's Collective Agreement, the parties have mutually agreed to negotiate revisions to the terms and conditions of the current collective agreement which has a term of September 1, 2004 to August 31, 2008.

The parties hereto hereby agree to the following as settlement in full:

1. The parties agree that the term of the revised Collective Agreement shall be from September 1, 2008 to August 31, 2012.

2. The renewal agreement shall include the terms of the previous Collective Agreement September 1, 2004 to August 31, 2008 provided, however that the agreed upon articles as set out in Appendix "A", are incorporated.

3. The renewed Agreement will reflect salary increases to Articles 5.010, 5.040, 5.060 and 17.011 as follows:

September 1, 2008	3%
September 1, 2009	3%
September 1, 2010	3%
September 1, 2011	3%

4. Except where stated otherwise, anything contained in the Collective Agreement which represents a change in the terms and conditions of the employment of employees of the Dufferin Peel Secondary Unit prevailing prior to the date of execution of the Memorandum shall become effective on the first day of the month following ratification.

5. At this time, it is not the Board's intent to change the current Joint Health and Safety Committee (Secondary Teachers) Worker Co-Chair Operating Principles during the life of the Collective Agreement September 1, 2008 - August 31, 2012, unless the Ministry of Labour revokes orders under Section 9 (3.1) of the Ontario Health and Safety Act, or passes legislative changes to the way an employer must operate their Joint Health and Safety Committees.

6. The Parties note the government's intention, conditional upon the approval by the Lieutenant Governor-in-Council, to support the expansion of secondary programming through a new allocation to be introduced in the GSN as follows:

   September 1, 2008 : 0.19 teacher per 1,000 secondary pupils;
   September 1, 2009 : 0.38 teacher per 1,000 secondary pupils;
   September 1, 2010 : 0.70 teacher per 1,000 secondary pupils;
   September 1, 2011 : 1.02 teacher per 1,000 secondary pupils;
   August 31, 2012 : 1.35 teacher per 1,000 secondary pupils.

   The Board will hire the full complement of additional funded secondary teachers that result from the new allocation. For the 2008-09 school year, the hiring of additional teachers shall occur at the second semester.

   The allocation of the additionally hired secondary teachers to secondary schools, as outlined above, shall be in the purview of the Boardwide SSAC.

7. The Board agrees to increase the statutory holiday pay identified in Article 17.011 to 3.5% in recognition of Family Day.

8. The parties agree that the following grievances are resolved in full:
   Grievance # (08.14) 6683: Loyola Catholic Secondary School – teaching assignment
   Grievance # (07.01) 3809: Mileage
   Grievance # (08.13) 6547: St. Paul Catholic Secondary School – interview
   Grievance # (08-05) 6376: Cardinal Leger Split Supervision
   Greivance # (07-11), 4052 OECTA # 4052 Edmund Campion

9. The parties agree that this, when ratified shall constitute a local agreement pursuant to and satisfying requirements of the Provincial Discussion Table (PDT) Agreements, and

the parties agree to execute and deliver to the Director, Labour Relations and Governance Branch, Ministry of Education the necessary letter of confirmation.

10. This Memorandum of Settlement is subject to ratification by the Dufferin-Peel Secondary Unit and the Trustees of the Board. This ratification will occur no later than November 30, 2008.

11. The Dufferin-Peel Secondary Unit's bargaining committee agrees unanimously to recommend the terms of this Memorandum of Settlement to its membership for ratification.

12. The members of the Board's bargaining committee agree unanimously to recommend the terms of this Memorandum of Settlement to the Board for ratification.

DATED AT MISSISSAUGA, THE 22nd DAY OF SEPTEMBER, 2008

FOR THE BOARD

FOR THE DUFFERIN-PEEL SECONDARY UNIT

Dufferin-Peel C.D.S.B. Class Size Targets and Maximum Targets

Preamble:

As an outcome of Letter of Understanding #19 of the 2008-12 secondary teachers' collective agreement, a joint committee was established to research and study class size issues such as class size numbers, PTC usage, and effective usage of class size data. Upon completion of its mandate, the committee emphasizes the fact that the chart (that includes target and maximum target numbers) and explanatory details are intended as guidelines only. It is recognized that extenuating circumstances and specific school community needs may exist that will require variations outside of these guidelines. The committee recommends however, that where possible, the guidelines be adhered to but that if variations outside the guidelines are required, that a collegial and collaborative process be used that should include consultation between the school Principal/designate and the classroom teacher who may potentially be impacted. It may also include, where appropriate, the applicable Department Head, Guidance Staff and the OECTA Rep. on SAAC. It is recommended that no more than 10% of the total class sizes in a school should exceed the target number.

These guidelines (including the accompanying chart) are recommended for implementation for the 2010-11 school year. In an effort to provide for a smooth transition, it is also recommended that these guidelines should be used in all preparation and planning activities that begin well prior to the actual beginning of the 2010-11 school year. This would include a review of these procedures and discussion with the SAAC that leads to timetabling/scheduling procedures and prior to section allocation.

Dufferin-Peel C.D.S.B. Class Size Targets and Maximum Targets

Targets and target maximums will be considered based upon the number of students registered in courses. Reporting numbers shall be based on the registered enrolment as of October 31st for Semester 1 courses and March 31st for Semester 2 courses.

COURSES	TARGET	TARGET MAXIMUM
Grades 9 and 10		
Locally Developed /Essential	15	n/a
Applied	24	26
Academic	28	30
Open (Compulsory/Elective)	27	29
Grades 11 and 12		
Workplace	20	n/a
Literacy Course Open – Gr. 12	20	n/a
Open (Compulsory/Elective)	27	30
College Prep	27	30
College/University	28	31
University Prep	30	33
Specialty (Subject/Rooms/ Equipment)		
Phys Ed – Gr. 9, 10	28	30
Phys Ed – Weight Training, Fitness	22	24
Phys Ed – Off Campus	25	27
Science Labs - Gr. 9 and 10	25	27
Technology (courses involving machinery/equipment with safety concerns)	20	22
Technology (other)	25	27

Target: When loading courses, the intent is to establish a class size target number at each school that does not exceed the target number as indicated on the grid above. In determining the school's target number, it is recommended that SAAC be involved in the discussions

Target Maximum: If Targets have to be exceeded due to extenuating circumstances, it is recommended that class sizes do not exceed those numbers as indicated in the target maximum column on the grid above.

(For DPSU)

Sept 18/2009
(Date)

(For the Board)

Sept. 23/2009.
(Date)

MEMORANDUM OF AGREEMENT

BETWEEN

DUFFERIN-PEEL CATHOLIC DISTRICT SCHOOL BOARD
(The Board)

- and -

O.E.C.T.A. SECONDARY TEACHERS
(The Unit)

RE: Benefit Enhancements

In accordance with Letter of Understanding No. 24 regarding PDT Benefits and Article 6.011 regarding any savings generated by moving to twenty-six (26) pay periods, the Parties met and agreed to benefit enhancements, effective September 1, 2010. Further, Letter of Understanding #24 indicates that once the benefit enhancements have been identified, Article 6 will be adjusted to reflect same, therefore, the relevant clause of the current collective agreement in Article 6 – BENEFITS is hereby amended as follows, and all other clauses in Article 6 remain status quo:

September 1, 2008 – August 31, 2010:

6.014
Major Medical Plan with extension to cover: vision care $200 every 24 months for adults and $150 every 12 months for dependent children, hearing aids $500 **every five (5) years,** chiropractic coverage maximum $225 (until December 31, 2008); $275 (as of January 1, 2009) per person and Health Care Outside Canada, Deductible $10 single, $20 family .....90% of required premiums.

Effective September 1, 2010:

6.014
Major Medical Plan with extension to cover:

- Vision care **$350** per person every 24 months for adults and $150 per person every 12 months for dependent children;
- **Eye exams for special conditions $200 maximum per person per lifetime;**
- Hearing aids **$2,000** per person every five (5) years;
- **Chiropractor/chiropodist/podiatrist** coverage maximum **$275** per person;
- Health care outside Canada;
- **Laser eye surgery $2,000 per person per lifetime;**
- **Massage therapy $40 per person per visit/maximum 12 visits per year;**
- **Psychologist $1,000 per person per year with the addition of Master of Social Work and Registered Family Therapist;**
- **Wigs following chemotherapy or alopecia $500 every five (5) years;**
- **Family/single deductible eliminated.**

.....90% of required premiums.

Signed in agreement this 3rd day of November, 2010.

For the Board:

For the Unit:

MEMORANDUM OF UNDERSTANDING

Agreed to on April 21, 2011

BETWEEN:

DUFFERIN-PEEL CATHOLIC DISTRICT SCHOOL BOARD

(the "Employer")

- and –

DUFFERIN-PEEL (OECTA) SECONDARY

(the "Unit")

Re: Transfer Procedures at Archbishop Romero CSS

The Board and the Unit agree that all future Archbishop Romero S.S. postings will entail:

- A one year term position with a position being reserved at their home school from which they came for one year.
- An option to return to the home school at the end of the one year position / term.
- The teacher declaring their intent by January 31 of first year at Archbishop Romero S.S. with the Teacher advising the Principal at Archbishop Romero S.S. and the home school Principal whether they intend to i) remain at Archbishop Romero S.S. permanently – which also means they waive their right to return to their home school OR ii) to return to their home school.
- The option for the Teacher to choose to remain at Archbishop Romero S.S. and become a permanent Teacher there, thereby releasing their home school position and waiving their right to return to their home school. If the Teacher chooses to remain at Archbishop Romero S.S. and become a permanent Teacher their current one year term position will not be re-posted.
- The option for the Teacher to apply to other posted panel/board wide positions during the first year of the term but only if s/he will not be continuing at Archbishop Romero S.S. after the 1 year position / term.
- The option of the Teacher who chooses to remain at Archbishop Romero S.S. and become a permanent Teacher there, to be eligible for future postings as is consistent for all other Teachers.
- An acknowledgement that if the Teacher chooses to remain at Archbishop Romero S.S. (and makes the declaration as referenced above), their previous home school will have a resultant vacancy and

depending on the overall staffing needs of the home school as per the staffing spreadsheet, may require a panel/board wide posting.

Archbishop Romero S.S. Teachers of two years or longer who wish a transfer to another school may do so by:

- applying for posted positions for which they are eligible;
- requesting an Administrative Transfer (in consultation with the Principal of Archbishop Romero S.S.; Employee Relations; the appropriate Family of Schools Superintendent; DPSU); or,
- requesting an Administrative Transfer for the following school year by January 31 (this request will be given favourable consideration)

N.B. Archbishop Romero S.S. Teachers who request an Administrative Transfer for the following school year and who are approved by Employee Relations as per the agreed upon process, may be added to the surplus list of teachers to be placed as referenced in Article 14.020 OR may be placed by Employee Relations via an alternative process in consultation with DPSU and in consideration of the Teacher's geographical preference(s).

A statement included with the posted position will state the following:

This is a one (1) year term position with the Teacher's option of either:

i) A return to their current school at the end of the one (1) year term.

OR

ii) The position becoming a permanent placement at Archbishop Romero S.S. at the end of the one(1) year term.

Further details regarding the procedures/details outlined above will be available from the Principal of Archbishop Romero S.S. at the time of interview.

For the Unit

Dated

April 21, 2011

For the Board

Dated

April 21, 2011

MEMORANDUM OF SETTLEMENT

Agreed to on May 11, 2011

BETWEEN:

DUFFERIN-PEEL CATHOLIC DISTRICT SCHOOL BOARD

(the "Employer")

- and –

DUFFERIN-PEEL (OECTA) SECONDARY

(the "Unit")

Re: Grievance OECTA # 8032-DPS-GD, BOARD # 10.20.

The Board and the Unit agree that any exemption from the exclusive use of seniority as a means for determining Teachers declared surplus to school as identified in Article 14 of the Secondary Teachers' Collective Agreement:

1. Will be for program/curriculum reasons as referenced in Article 14.017 and respective of Regulation 298 of the Education Act.

2. Will require that the program/curriculum needs that resulted in the exemption to the surplus provisions of Article 14 result in at least 3 sections of the exempted Teacher's timetable being in the subject area for which they were exempted from surplus.

3. May allow for a TLA in a subject area that is not part of the portion of the Teacher's timetable for which they were exempted from surplus as per # 2 above.

4. Will require that Teacher timetables for all Teachers exempted from being declared Surplus be provided to the local staffing committee (SAAC) by September 15 of the school year after which they were deemed exempt from Surplus.

5. May allow for a Teacher to teach by mutual consent in a subject area that is not part of the portion of the Teacher's timetable for which they were exempted from surplus as per # 2 above.

6. Should an exception to #2 above (i.e., less than 3 sections of the exempted Teacher's timetable being in the subject area for which they were exempted from surplus) be advocated by the Board due to specialty course/program offerings at the school for the following school year, in the interest of both parties, consultation and full disclosure will be provided through the Employee Relations Department to the Unit in advance of the exemption being approved by the Board.

For the Unit

May 11/2011
DATED

For The Board

May 11, 2011
DATED

IN THE MATTER OF AN ARBITRATION
BETWEEN:

DUFFERIN PEEL CATHOLIC DISTRICT SCHOOL BOARD

(the "Employer")

-and-

THE ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

(the "Union")

AND IN THE MATTER OF THE GRIEVANCE OF

Louisa M. Davie **Sole Arbitrator**

Appearances

For the Union: **Bernard Hanson**

For the Employer: **John-Paul Alexandrowicz**

AWARD

On November 20, 2009, the Ontario English Catholic Teachers' Association ("the Union") submitted a grievance to Dufferin-Peel Catholic District School Board ("the Employer" or "the Board") in which it grieves

> "The Board through its Principal at ' Secondary School engaged in a pattern of harassment and intimidation against one of our members . These actions violated Article 13.062 of the collective agreement."

The grievance also refers to "Articles 1.030 A, 1.031, 1.033, 1.035 (b), 1.035 (c), and 13.062 and possibly others." Broadly speaking the first referenced articles deal with management rights and discipline and are not relevant to this award. The last article is reproduced below. I note at the outset that the grievance relates to workplace harassment and does not engage any provisions of the Human Rights Code relating to harassment.

The Employer has made a preliminary motion that I dismiss the grievance because, in their collective agreement, the parties have negotiated express language which precludes this type of grievance from proceeding to arbitration. Instead, for this type of harassment grievance, the parties have provided an alternative process which is akin to arbitration and which satisfies section 48 of the *Labour Relations Act* ("the *LRA*"). In the alternative the Employer submits that I should exercise my discretion not to hear this matter as proceeding with the grievance amounts to an abuse of process.

In addition to disputing the Employer's interpretation of the language of the collective agreement, the Union takes the position that, to the extent the Employer submits that the Union is prohibited from grieving and arbitrating a difference pertaining to workplace harassment under Article 13.062 of the collective agreement, that prohibition is contrary to section 48 (1) of the *LRA* which requires that every collective agreement "provide for the final and binding settlement by arbitration... of all differences between the parties

arising from the interpretation, application, administration or alleged violation of the collective agreement."

The key provisions of the collective agreement upon which the Employer relies can be found in Articles 13.061 and 13.062.

13.061 The Board recognizes the importance of providing a workplace free from harassment, including sexual harassment, (see Appendix "D") which shall apply to all Teachers covered by this Agreement. **It is understood and agreed that any complaints of harassment, including sexual harassment, shall be dealt with in accordance with the policy and shall not be subject to the grievance and arbitration procedures under this agreement.**

13.062 The Board recognizes that the inherent right of all individuals to be treated with dignity and respect is central to Catholic values and Christian beliefs. As a Catholic educational community it is committed to the creation of a working and teaching environment which fosters mutual respect for the dignity and well-being of all employees and recognizes that every employee has a fundamental right to a workplace free from harassment.

Harassment may include incidents involving unwelcome behavior, which he or she knows or should know, is unwelcome and includes but is not limited to:

- Unwanted comments, interference or suggestions;
- Various forms of intimidation and aggressive behavior;
- Verbal and emotional abuse;
- "Bullying" - which is an attempt to undermine an individual through criticism, intimidation, hostile verbal and non-verbal communication and interfering actions.

It is understood that incidents involving alleged harassment shall be dealt with in accordance with the operational procedures referenced in Appendix F.

It is not disputed that the reference to Appendix F in Article 13.062 is a typographical error, and that the correct reference is to Appendix D

In addition to Article 13.061 and 13.062 during the course of their submissions reference was also made to Articles 13.053 and 13.063 which state:

13.053 The health and safety of its Teachers and Students is a matter of paramount importance to the Board. In recognition of that fact, and consistent with the Occupational Health and Safety Act, the Board shall take all reasonable precautions to protect the health and safety of its Teachers and Students.

13.063 The Board recognizes the importance of providing a workplace free from assault and has accordingly established an assault procedure (see Appendix "C")which shall apply to all Teachers covered by this Agreement. **Assaults, or alleged assaults, of teachers are to be dealt with in accordance with the procedure, but such procedure shall not be subject to the grievance and arbitration procedures under this Agreement.**

Appendix D is lengthy and will not be set out in its entirety. The provisions critical to the submissions of the parties are reproduced below. The Appendix details a process for dealing with harassment, including sexual harassment. It includes a definition of harassment, and a process by which employees may file complaints, which go through various steps of an informal and/or formal resolution process. The formal resolution process includes investigation by a "Board employee or independent" after which the Superintendent of Employee Relations advises the complainant and respondent of the

conclusions of the investigation and the "outcomes". These outcomes may include rehabilitative or disciplinary action.

The parts of Appendix D on which the parties placed particular emphasis in their submissions are as follows:

> Preamble: The entire GAP # 305 Employee Workplace Conduct procedure applies for any incident related to discrimination and harassment. The following excerpts from GAP # 305 are included below for practical reference.
>
> Harassment Procedure (including Sexual Harassment)
> General Administrative Procedure (GAP # 305 Employee Workplace Conduct)
>
> ...
>
> Resolution Procedures:
>
> Nothing in these procedures prevents an employee from exercising his or her rights under the Human Rights Code or in the Criminal Code. Further, the rights of all parties will be respected throughout the process. **The complaint procedure should not be invoked or pursued at the same time as a parallel complaint before the Ontario Human Rights Commission, or while a complaint is being dealt with through the grievance process.**
>
> The goal of the resolution procedures is to stop harassing behavior. All processes must remain confidential....
>
> ...
>
> STEP 3 - FORMAL RESOLUTION
>
> - Complaint is filed with the Superintendent of Employee Relations...
> - ...
> - Superintendent of Employee Relations designate (may be Board employee or independent) will commence a separate investigation into the complaint...

- Superintendent of Employee Relations designate to interview the Complainant, Respondent and any witnesses (separately).

... if it is determined by the Superintendent of Employee Relations/designate that mediation is not appropriate, or if no resolution is reached through mediation, the investigation will continue **and a determination in the matter will be made by the Superintendent of Employee Relations**.

...

OUTCOMES

Depending on the outcome of the Step 3 investigation the decision regarding the rehabilitative or disciplinary action for the respondent and/or the complainant may include, but is not limited to:

- counseling
- education on harassment
- formal written apology
- change of work assignment of the complainant and/or respondent
- disciplinary action up to and including dismissal

[I note parenthetically that in GAP 305, following this list of outcomes, it is stated "such a decision regarding outcomes is made by the Superintendent of Employee Relations"]

...

Consultation with Principal and OECTA

The following are a list of options available to be implemented with the intent to stop harassing behavior as soon as possible. Should the harassing behavior continue, Teachers should access the following options where applicable, dependant upon the parties involved and the nature of the complaint.

- "Access to property" letter
- Meeting with Individual and /or Principal and/or Supervisory Officer (develop a possible strategy for resolution)
- Letter from OECTA to a member regarding obligations to a fellow member
- Legal Counsel - Letter from Board and /or OECTA
- Police involvement
- **Grievance Procedure**
- Human Rights Complaint

- Workplace Conduct Procedure (GAP GAP 305)
- Employee Relations Department involvement
- Section 265 (m) of The Education Act - exclusion of an individual
- The Occupational Health and Safety Act
- Complaint to Plant and/or Purchasing Department re: Contract Workers
- Memorandum of Settlement

Facts

The facts giving rise to this motion are neither complicated, nor in dispute.

On October 23, 2009 ("the grievor"), a teacher at filed a workplace conduct complaint under General Administrative Procedures GAP 305 (hereafter "GAP 305"). The complaint names his principal, and asserts the principal has engaged in harassing and bullying behavior.

Upon receipt of the complaint J. Geiser, Superintendent of Employee Relations, appointed the Superintendent of the Family of Schools which includes to investigate. This is essentially Step 2 of the GAP 305 and Appendix D process. On October 29, 2009 the grievor and the principal were both advised of this fact. Each was advised that this Superintendent would convene a meeting and that they were entitled to have representation at that meeting. In the grievor's case that representation would come from the Union.

On November 6, 2009 the Union wrote to Mr. Geiser on behalf of the grievor. In that correspondence the Union outlined its view that the appointment of the Superintendent of the Family of Schools was inappropriate and an independent third party should be appointed to investigate and/or mediate. The Employer's response dated November 11,

2009 indicates that the Board did not share the Union's concerns about the appointment and that the Board would not appoint an independent third party.

By letter dated November 17, 2009 the Union reiterated that it disagreed with the Board's approach and the appointment of the Superintendent of the Family of Schools. The Union concluded this correspondence stating "accordingly we wish to withdraw the GAP 305 complaint on behalf. In its stead we will be filing a grievance in an attempt to remedy the complaint made against the

The following day this grievance was filed.

The Board's response to the Union's November 17, 2009 correspondence is contained in its letter dated November 29, 2009. In that letter the Board stated that the grievor's complaint was to be handled at Step 2 of the GAP 305 procedure which does not provide for an independent investigator or mediator. The Employer noted that the Union had "full and meaningful input" into the GAP 305 process when it was developed and stated:

> "...The Unit's lack of cooperation and objections to this agreed upon process are counterproductive and quite concerning. Furthermore, as this is a Board process, once the complaint has been filed, the Board assumes ownership of it. As such, the Board determines how to proceed and the process to follow as outlined in the procedure."

The Employer emphasized that once the complaint was filed the Board had a duty to investigate and that it intended to proceed with the complaint and investigate notwithstanding the notice of withdrawal. The Employer concluded with its expectation that the grievor would participate in the GAP 305 process.

Thereafter the grievance proceeded through the grievance procedure while, simultaneously, the complaint proceeded through Step 2 of the GAP 305 process.

On May 17, 2010 the grievor and the Principal were advised of the results of the Step 2 investigation. This was copied to the Union. The Superintendent stated:

> "Having reviewed the various details related to this matter and after careful consideration, I acknowledge there are number of concerns and disputes that exist. I will continue to assist and participate in resolving those items. Concerns and disputes will rise from time to time however, I have found no evidence to substantiate the harassment and bullying you have alleged in your complaint. As such I am bringing closure to your GAP # 305 –Step2. However, if you feel your complaint has not been resolved, you have the option of referring the matter to Employee Relations at Step 3. You may wish to consult further with [the Union] in this regard."

On May 28, 2010 the grievor resubmitted his complaint at Step 3 of the GAP 305 process. The substance of that submission is the same as the complaint originally submitted at Step 2.

Prior to doing so the Union wrote to the Superintendent of Employee Relations to complain that, during Step 2 of the GAP 305 process, the Union and the grievor had not been provided with the Principal's responses. The Union submitted to the Superintendent of Employee Relations that the failure to disclose the Principal's evidence to the grievor denied the grievor "a fundamental precept of natural law namely the disclosure of evidence presented by one party to the other party, who may then subject said evidence to scrutiny. From our perspective the fairness of the GAP 305 process has been brought into question by this decision. The Unit respectfully requests that the decision be reconsidered."

Following the submission of the complaint at Step 3 of the GAP 305 process the parties agreed to hold this grievance in abeyance.

Step 3 of the GAP 305 process provides for a separate investigation, following which the Superintendent of Employee Relations makes a determination regarding the "outcomes." As part of its submission of the complaint at Step 3 the Union renewed its request for an independent third-party investigator. The Board denied that request. Instead the investigation was conducted by the Manager of Employee Relations and personnel from the Employee Relations Department.

Ultimately, on September 2, 2010, following the completion of the Step 3 investigation, the outcomes of the investigation and the decision-making process were communicated to the grievor and the Principal by the Superintendent Employee of Relations who considered the results of the investigation and who determined the appropriate outcomes as required by GAP 305. Both the grievor and the Principal were advised that the allegations of harassment had not been substantiated. However, the Principal was advised that the investigation showed that improvement in the areas of communication, consultation, team support and relationships would be beneficial to the Principal and the school community. The grievor was also advised that improvement in certain areas from him would benefit the situation and the school community. The areas of improvement included his communication with the Principal, the expectation that he interact with all staff professionally, and that he refrain from using nicknames to address students.

The grievor was disappointed with the outcome of the Step 3 GAP 305 investigation. Accordingly the Union on his behalf sought to re-engage the grievance which had been held in abeyance. The grievance was reactivated. When it was moved to Step 2 of the grievance procedure the Board wrote to the Union as follows:

> "... the Board wishes to emphasize its position that a grievance of this nature is in violation of Article 13.061 and 13.062 of the collective agreement as expressed to you on numerous occasions in the past."

The Board proposed that the grievance procedure directly to arbitration.

The particulars of the grievance which were subsequently provided to counsel for the Employer indicate that these are the same as the allegations attached to the grievor's complaint at Step 2 and later Step 3 of the GAP 305 process.

Submissions of the Employer

At the outset it must be noted that both parties made extensive submissions regarding the appropriate interpretation of the language of the collective agreement under which this grievance was filed. In doing so each made reference to the historical evolution of the language as an aid to interpretation. Neither party called oral evidence of the negotiations which led to the inclusion of the relevant language, nor the changes to that language over successive collective agreements. The intent of the parties therefore must be determined having regard only to the language they have used.

The Employer's primary submission is that, although not referenced in the grievance, Article 13.061 is critical to any determination of this motion. Article 13.061 deals specifically with harassment. It is the Employer's submissions that the last sentence of Article 13.061 (**"It is understood and agreed that any complaints of harassment, including sexual harassment, shall be dealt with in accordance with the policy and shall not be subject to the grievance and arbitration procedures under this agreement.**") and the last sentence of Article 13.062 (**"It is understood that incidents involving alleged harassment shall be dealt with in accordance with the operational procedures referenced in Appendix [D]"**), combined with Appendix D itself operate to bar the grievance from proceeding before an arbitrator appointed under

the "regular" grievance/arbitration procedures of this collective agreement. The language of the collective agreement was clear and explicit and barred this grievance.

Counsel addressed the 2 references to the grievance procedure in Appendix D. It was submitted that Appendix D essentially incorporates GAP 305 into the collective agreement. The Appendix borrows heavily from GAP 305 and lists entire passages from that document. It was counsel's submission that, because GAP 305 applies Board wide, and not just to the secondary school teachers covered by this collective agreement, when the provisions of GAP 305 found their way into Appendix D some references were included in error. Thus, Appendix D refers to "supervisors", the term found in GAP 305, rather than "principals", which is the more appropriate term to use when dealing with the secondary schools teachers' bargaining unit. Similarly, the reference under the "Resolution Procedure" that the complaint process should not be pursued "while a complaint is being dealt with through the grievance process" was included in error. That terminology from the GAP 305 process was relevant for other employee groups to which GAP 305 applied, who did not have specific language barring a grievance in their collective agreement. In the face of the clear and explicit language found in Article 13.061 that GAP 305 phraseology was irrelevant and did not, and could not, have any application.

Counsel also addressed the second reference to a "grievance procedure" found in Appendix D under the "Consultation with Principal and OECTA" section. It was submitted that this section of Appendix D was more of an advice section to bargaining unit members. This section of Appendix D did not impose substantive obligations on the Board. Counsel also traced the historical origins of this reference. With reference to the language of the predecessor collective agreements covering this bargaining unit, as well as collective agreements between the Employer and other bargaining units, he submitted that this reference to a "grievance procedure" was not applicable to this bargaining unit because of the explicit prohibition found in Article 13.061 against

processing harassment complaints through the grievance and arbitration process. It was the Employer's position that the opening paragraph of the "Consultation the Principal and OECTA" section specifically states the options should be accessed "where applicable" and depending on the parties involved. Here the grievance procedure was not applicable because of the specific bar found in Article 13.061.

Counsel asserted that the prohibition against using the grievance and arbitration process to deal with harassment complaints was long-standing. Since 1998 the parties have used very clear language to bar grievances about harassment and have agreed instead that these types of complaints will be dealt with in accordance with GAP 305. Initially the collective agreement and the policies in place dealt only with sexual harassment. In the 2003 - 2004 collective agreement the parties added Article 13.062 to deal with workplace harassment and agreed that those complaints would also be dealt with in accordance with the operational procedure to be developed. That operational procedure was subsequently developed by a Joint Committee and ultimately led to what is now in Appendix D which deals with the process to be followed for all complaints of sexual and workplace harassment.

It was argued that the collective agreement must be read in its entirety. The language of Article 13.061 and 13.062 which barred this grievance was clear and precise. That language, combined with the extensive provisions found in Appendix D, indicated a clear intent that harassment complaints were to be dealt with through the GAP 305 process and not the grievance/arbitration provisions of the collective agreement.

Appendix D and the GAP 305 process do not refer to arbitration. The two minor references to a "grievance procedure" found in Appendix D were not sufficient to overcome the clear language of Article 13.061. This was particularly true because the preamble to Appendix D specifically states that the entire GAP 305 procedure applies to

any harassment complaint, and the excerpts found in Appendix D are included only for "practical reference."

In addition, although the "resolution procedure" section continues to state that the harassment complaint procedure can't be pursued while a complaint is being dealt with in the grievance process, this reference must be viewed in its historical context. In the predecessor collective agreement the "resolution procedures" section of Appendix D (which at that time dealt only with sexual harassment") stated that:

> "Nothing in these procedures prevents an employee from exercising his rights under the Human Rights Code or the Criminal Code. Further, the rights of both parties will be respected throughout the process. The complaint procedure should not be invoked or pursued at the same time as a parallel complaint before the Ontario Human Rights Commission or while a complaint is being dealt with through the grievance process, **both of which are options that can be exercised by the parties involved. The procedures outlined here will be suspended while such proceedings are taking place and are not intended to preclude rights under the Human Rights Code, 1981, or a collective agreement."**

It was the Employer's position that the deletion of the highlighted provision was an effort by the parties to delete language referring to the grievance procedure, and it was simply an error or oversight that the first portion of the paragraph was not similarly amended.

The Employer asserted that there was nothing wrong or inappropriate for the parties to specifically negotiate provisions which barred certain types of differences from proceeding through the "typical" grievance/ arbitration provisions of the collective agreement and instead agree that differences relating to harassment complaints be dealt with under an alternative arbitration process which complies with the statutory requirements of section 48 (1) of the *LRA*.

It was argued that in their collective agreement these parties had included an arbitration procedure for all differences arising under the collective agreement. However, the nature of that arbitration procedure was different depending on the nature of the difference. The "typical" grievance/arbitration procedure, with its various steps, was applicable to certain types of differences. An equally detailed and very specific dispute resolution process had been negotiated by the parties to deal with harassment complaints which, by their very nature, were not well suited to be dealt with through the typical adversarial grievance/arbitration process.

It was submitted that Appendix D which incorporates GAP 305 was a distinct form of arbitration agreed upon by the parties. The procedure agreed upon and negotiated as part of this collective agreement permitted individual teachers to bring a complaint against an individual respondent (which could be any employee of the Board). Thus the Appendix D, GAP 305, procedure was broader than the traditional grievance process because the complainant was not limited to filing a grievance against the Employer.

The alternative dispute resolution or arbitration process found in Appendix D and GAP 305 procedures were all encompassing. It included fact-finding which was achieved by way of an investigation rather than the adversarial process of the cross-examination of witnesses. The process contained various steps including mediation, just as section 48 (14) of the *LRA* permits mediation. The process fixed timelines to ensure that it was completed expeditiously. It contemplates that the complainant and the respondent may have representation during the investigative process. After the investigation, at Step 3 of the process, the parties had agreed upon and named the decision maker or arbitrator who must make a decision about the complaint. Here the parties had agreed that the Superintendent of Employee Relations would be the arbitrator who makes the determination of the harassment complaint. That arbitrator has been clothed with broad discretion to determine the remedial outcomes.

Counsel argued that one distinct advantage of the agreed upon process was that the decision of the Superintendent of Employee Relations could be imposed seamlessly. The remedial options available were also broader than those generally exercised by a "traditional" arbitrator under the "typical" arbitration process.

Counsel provided a number of reasons why this specifically negotiated process was well suited to dealing with harassment complaints. These included the fact that the process is focused directly on the interpersonal conflict between individuals and thus avoids the artificial construct of a grievance which claims that "the Board through its principal... engaged in a pattern of harassment..." The process contemplates a confidentiality which is also well suited to harassment complaints. It provides the Union with an efficient and expeditious way of dealing with harassment complaints through an investigation and resolution process for which the Union does not have to pay. The remedial discretion of the decision maker is broad.

The Employer referred to the following cases in support of its position that the parties can agree upon different types of arbitration processes for different types of cases: *Vernon v. General Motors of Canada Ltd. et.al., 250DL.R. (4th) 259, George Brown College of Applied Arts and Technology v. Ontario Public Service Employees' Union 235 DL.R. (4th) 312, Elementary Teachers' Federation of Ontario and Kawartha Pine Ridge District School Board (Supervision Time Grievance) 2006 (Cummings), The Thames Valley District School Board and the Elementary Teachers' Federation of Ontario Thames Valley Local (Policy - Supervision Grievance) 2006 (Albertyn), Re Stelco Inc., Hilton Works and United Steelworkers of America, Local 1005 (1997) 65 L.A.C. (4th) 1 (Hinnegan).* The Employer referred to *Strofolino et. al. v. Helmstadter et. al. 55 O.R. (3d) 138* and the cases referred to therein in support of its position that the process established in GAP 305 and Appendix D was an arbitration.

In anticipation of the Union's position that the Superintendent could not be the "arbitrator" of harassment disputes, Employer counsel submitted that there was nothing improper or inappropriate for the parties to agree that the Superintendent of Employee Relations act as the final arbitrator of workplace harassment complaints. There was no reason to believe that, in dealing with such a dispute between the employees of the Board, the Superintendent of Employee Relations would not be impartial or favour one employee over another. Workplace harassment disputes deal with interpersonal conflicts and don't involve the respective interests of the Employer and the Union with respect to the interpretation of a particular provision of the collective agreement. As a result it can't be assumed that the Superintendent of Employee Relations has an interest beyond an interest that the harassment complaint be dealt with fairly, and in an expeditious and neutral manner. To the extent that the Union now sought to raise issues of potential bias it was argued that, as contemplated by section 48 of the *LRA*, the parties had specifically agreed that the Superintendent of Employee Relations would be the arbitrator of these types of disputes. Their agreement on the arbitrator negated any suggestion of bias

It was also asserted that the grievance before me was not a challenge to the process established in the collective agreement and GAP 305. Rather, the grievance attempts to circumvent the agreed upon process. Employer counsel argued that if there were concerns about the process, or concerns that the process did not comply with the *LRA*, the appropriate forum for deciding that matter was the Ontario Labour Relations Board ("OLRB") pursuant to section 48 (3) of the *LRA*. I was without jurisdiction to remedy any perceived deficiencies in the "arbitration" provisions agreed upon by the parties in their collective agreement. Similarly, if, in an individual complaint, there was a reasonable apprehension of bias or a concern that the Superintendent of Employee Relations was biased, that was something to be raised through a bias motion made to the Superintendent of Employee Relations.

Finally, Employer counsel submitted that if I concluded that this grievance was not barred by the specific language of the collective agreement and the process established by Appendix D and GAP 305 I should exercise my discretion and refuse to hear the grievance on the basis that to do so would to be an abuse of process.

The grievance filed was identical to the complaint which had been filed under GAP 305. With respect to that complaint there had been two investigations and a decision made following each one of those investigations. The grievor had participated in the GAP 305 process and was represented by the Union throughout that process. It would be an abuse of process to relitigate the same matters. (*see Canadian Union of Public Employees, Local 79 v. City of Toronto et. al.; Attorney General of Ontario 120 L.A.C. (4th) 225 (S.C.C.) and Cariboo Pulp and Paper Company and Communications, Energy and Paper Workers Union, Local 1115, 155 L.A.C. (4th) 19)*

The Submissions of the Union

Counsel for the Union traced the origins of Articles 13.053, 13.061, 13.062 and 13.063 through a review of predecessor collective agreements. He argued that the significant changes made to these articles, and Appendices "D" and "F" which, over the years, applied to complaints of sexual or workplace harassment, militated against the Employer's position that any reference to a grievance procedure in Appendix "D" was an error or an oversight. It was submitted that the substantial changes to the articles and the appendices over the years indicated that the parties turned their minds to the different types of complaints and intended to apply different rules to different circumstances.

Counsel noted that each of the four articles dealt in a distinctly different manner with the complainant's or grievor's right to access the grievance /arbitration provisions of the

collective agreement. Article 13.053 dealt with health and safety of the teachers and students and did not contain any restrictions pertaining to access to the grievance /arbitration provisions of the collective agreement. Article 13.061 now overlaps somewhat with Article 13.062. However it is only Article 13.061 which expressly restricts access to the grievance/arbitration provisions of the collective agreement. By way of contrast, Article 13.062, which deals with workplace harassment, does not expressly deny access but simply advises that the aggrieved party must follow the procedure set out in the Appendix. Article 13.063 which deals with assault also mentions following a procedure and, in somewhat different language, states that the procedure shall not be subject to the grievance/arbitration provisions. With reference to the significant changes made to these articles and the appendices over successive collective agreements it was submitted by the Union that one can't simply assume that the parties to the collective agreement intended alleged violations of Article 13.062 to be treated in the same manner as alleged violations of Articles 13.061. The parties did not collapse these two articles into a single article. Instead they maintained two separate articles, each with different language, and only one of which specifically restricted access to arbitration (Article 13.061), while the other referred only to a procedure to be followed.

Counsel submitted that Article 13.061 historically dealt with sexual harassment and that continues to be its main focus. Article 13.062 is broader and deals with workplace harassment. This grievance alleges a violation of Article 13.062, not 13.061. Article 13.062 directs the parties to Appendix D and an operational procedure (GAP 305) which specifically indicates that a complainant or aggrieved party continues to have the right to grieve under a collective agreement. GAP 305 states

> "Filing a complaint under the Workplace Conduct Procedure (including Workplace Harassment) **is not intended to preclude rights under the Collective Agreement**, Ontario Human Rights Code, and Criminal Code of Canada or other avenues of redress open under the law.

The complaint and investigation procedures should not be invoked or pursued at the same time as a parallel complaint before the Ontario Human Rights Commission or if the grievance remains outstanding. While such proceedings are taking place, the procedure outlined here will be suspended and may be superseded, where appropriate."

Moreover, Appendix D of the collective agreement itself expressly references the grievance process under the "Resolution Procedures." The Union submitted that the Employer's position that the reference to a grievance procedure in Appendix D was an error because the parties were adopting a Board wide procedure and the collective agreements of other Board employees did not contain an express prohibition against filing a grievance was not well founded. If, in their collective agreement, the parties merely intended to direct the parties to the GAP 305 process they could have used much simpler language. They did not do so and instead specifically drafted an appendix, which sets out a separate parallel procedure, which continues to refer to the employee's right to grieve.

Union counsel noted that the appendix dealing with workplace harassment has always referred to the employee's right to grieve so that it could not be argued that maintaining a reference to the grievance procedure in Appendix D was in error. That reference was maintained through several collective agreements, and, notwithstanding certain other "housekeeping" matters, was maintained when the distinct appendices dealing with sexual and workplace harassment were condensed into a single Appendix D.

Counsel pointed to the differences in the language used in GAP 305 and under the "Resolution Procedures" of Appendix D as further evidence that the parties turned their minds to these provisions and specifically drafted a procedure which parallels GAP 305 for inclusion into their collective agreement. That procedure, now contained in

Appendix D, contemplates that an employee may pursue redress in different forums, including the grievance/arbitration provisions of the collective agreement.

With respect to the language of the collective agreement Union counsel also referred to the language of Appendix D found under the "Consultation with Principal and OCETA" section. Once again there is a specific reference to the grievance procedure in that section thus supporting the Union's position that employees are not precluded from accessing the "regular" grievance/arbitration provisions of the collective agreement in case of workplace harassment complaints. Counsel noted that the entire provision found in the "Consultation with Principal and OECTA" section does not appear in GAP 305. It was submitted that this language was specifically included in the Appendix which first dealt with workplace harassment when Article 13.062 was negotiated into the collective agreement. That reference was maintained through successive collective agreements, even when the appendices pertaining to sexual and workplace harassment were "collapsed" into a single appendix.

It was the Union's position that the "Consultation with Principal and OCETA" provision found in Appendix D was more than just an advice section as suggested by the Employer. The preamble of the section indicated that there were a series of steps which could be undertaken to stop harassing behavior. However, if those steps were not sufficient and the harassing behavior continued the teacher "should access the following options." One of the options was the grievance procedure.

The Union argued that the Employer's submissions that the words "where applicable", in context of Article 13.061, indicated that the grievance procedure was not applicable to members of this bargaining unit made little sense. Instead, it was the Union's position that the "where applicable" reference was maintained when the separate appendices for sexual and workplace harassment were condensed into single appendix to exclude

complaints of sexual harassment as these have always been barred from proceeding through the grievance/arbitration process. The option of the grievance procedure for sexual harassment complaints was therefore "not applicable." In the case of workplace harassment however these types of complaints have to comply with Gap of 305 and the procedure set out in Appendix D, both of which refer to the grievance procedure. That option therefore is applicable in the case of workplace harassment complaints under Article 13.062, which is the type of grievance at issue in this case.

In the alternative the Union argued that if I were to conclude that a grievance under Article 13.062 was barred, this grievance could proceed under Article 13.053. It was the Union's position that Article 13.053 contains an implied assertable right to freedom from harassment. Counsel referenced those case which stand for the proposition that a workplace free from harassment is implied in articles pertaining to the health and safety of bargaining unit members. (*Toronto Transit Commission and Amalgamated Transit Union*, 132 L.A.C. (4th) 225 (Shime), *Moduline Industries (Canada) Ltd. and I.A.M. Lodge 2711*, 172 L.A.C. (4th) 163 (Blasina)) Union counsel argued that there are no limitations or restrictions on the right to grieve and arbitrate alleged violations of Article 13.053. The grievance before me references certain articles of the collective agreement but also states "possibly others" leaving open the possibility that other articles of the collective agreement may be raised. It was therefore open to the Union to rely upon the facts particularized in the grievance in support of its position that these indicate a violation of Article 13.053.

In this regard it was also submitted that Article 13.053 and 13.062 serve different purposes. In maintaining Article 13.053 and its implied assertable right to have a workplace free from harassment, despite a later specific reference to workplace harassment in Article13.062, the parties intended to preserve the Union's right to grieve the Employer's failure to maintain a workplace free from harassment. While Article 13.062 and Appendix D dealt with interpersonal conflicts, the purpose of Article 13.053

was to ensure the Union's right to address the Employer's obligation to maintain a workplace free from harassment.

The Union's final arguments revolved around the arbitration provisions of the *LRA*. It was submitted that if I were to conclude that the language of this collective agreement prohibited the arbitration of workplace harassment grievances such prohibition was contrary to section 48 (1) of the *LRA*.

The *LRA* required that workplace disputes be resolved through final and binding arbitration. That is fundamental to the scheme of labour relations in the province, and a key component of the trade-off between employers and trade unions to prohibit mid-collective agreement economic sanctions in exchange for a mechanism through which industrial disputes are dealt with through final and binding arbitration. Labour arbitration is a statutory and not a private process and thus distinguishable from other arbitrations under, for example, the *Arbitrations Act*. As statutory decision-makers arbitrators must act in accordance with principles of administrative law and natural justice. Those principles require that arbitrators be both neutral and credible. The exercise of quasi judicial function requires an arbitrator to decide questions of fact and law and consider appropriate remedial relief having regard to both. As a result, under the *LRA*, arbitrators must be both independent and impartial and have the appearance of independence and impartiality. (*Steven Szilard and Ralf Szasz [1955] S.C.R.3, The International Nickel Company of Canada Limited and Rivando [1956] O.R. 379, C.U.P.E. v. Ontario (Minister of Labour), [2003] 1 S.C.R. 539, Bethany Care Centre v. United Nurses of Alberta, Local 91, (1983) 5 D.L.R. (4rh) 54, Communciation Energy and Paperworkers Union of Canada Local 60N v. Abitibi Consolidated Company of Canada, 169 L.A.C. (4th) 65*)

In response to the position that, under Appendix D and Gap 305, the Superintendent of Employee Relations was the chosen arbitrator it was submitted by the Union that because of his position and his structural relationship within the Employer's organization there appeared to be a lack of independence and impartiality if the Superintendent of Employee Relations filled the role of arbitrator. The Union did not argue that the Superintendent of Employee Relations was partial or biased, only that his position gave rise to an appearance of dependence and partiality, and a reasonable apprehension of bias. From an institutional perspective his position was not independent or impartial. The position was a senior member of the Board's management team, and a member of its Executive Committee. The Superintendent of Employee Relations was part of the Board's bargaining team in the negotiations leading up to the current collective agreement. The position is contemplated in the grievance procedure. (*Steven Szilard, supra, Re Centenary Health Centre and Ontario Public Service Employees Union (1996) 60 L.A.C. (4th) 21 (Whittaker), Canadian Pacific Ltd. v. Matsqui Indian Band, [1995] 1 S.C.R. 3, Catholic Independent Schools Diocese of Prince George and DC. Government and Service Employees' Union, [2001] DC.L.R.DD. No. 112, Douglas College and Douglas College Faculty Association and John Hazell, [1990] DC.L.R.DD. No. 69*)

In support of these submissions counsel also relied on numerous "nominee" cases which have dealt with challenges to the identity of a nominee and which stand for the proposition that nominees may have an appearance of partiality, but must nonetheless always have the appearance of independence. Reference was made to those cases where the employment relationship of the nominee gave rise to a reasonable apprehension of bias. It was argued that if it is recognized that the employment relationship of a nominee may give rise to reasonable apprehension of bias and a lack of independence (when that nominee is a member of a three-person arbitration board where the Chair of the arbitration board is always independent and impartial) the same must surely be true when, as here, there's only a single decision maker whose position

and employment relationship equally gives rise to the apprehension of a lack of independence.

The Union asserted that it was immaterial that the parties had specifically negotiated and agreed upon the GAP 305 and Appendix D process. The process agreed upon does not meet the minimum basic statutory requirements of final and binding arbitration by an independent and impartial arbitrator. It was therefore contrary to, or illegal under, section 48 of the *LRA*.

The Union also responded to the Employer's position that if there were shortcomings in the agreed upon arbitration procedure the appropriate forum for the adjudication of that issue was the OLRB under section 48 (3) of the *LRA*. The Union argued that the issue before me was whether I have jurisdiction to hear and determine this grievance. In asking that I assume jurisdiction the Union seeks a determination that the Appendix D process and GAP 305 are not arbitration. It seeks a declaration that the grievance is not barred by the provisions of the collective agreement which purport to restrict access to grievance arbitration of workplace harassment disputes. The Union was not asking to amend the collective agreement or the GAP 305 and/or Appendix D procedure as it would be required to do if it made an application to the OLRB under section 48 (3).

Finally, the Union addressed the Employer's arguments as they related to issue estoppel and abuse of process. It was the Union's position that neither concept applied in the instant case. Issue estoppel was not applicable because the parties are not the same. In the GAP 305 process the parties were the grievor complainant and the respondent principal. In this grievance the parties are the Union and the Board. Moreover, to the extent the grievor initially was a party to the GAP 305 procedure, he ceased being a party when he requested to withdraw his complaint and the Board proceeded notwithstanding that request. In so doing the Board indicated that it was

proceeding because it had carriage of the complaint. Thereafter it was the Board which was the party to the complaint, not the grievor.

Union counsel argued also that issue estoppel was not applicable because it required that the earlier decision be "judicial", that is to say "independent, impartial and fair." Decisions made under GAP 305 and Appendix D did not meet that threshold. Similarly, the earlier "judicial process" must be final in order for issue estoppel to apply. The GAP 305 and Appendix D process was not final. There was nothing in the process to say it was final and indeed the references that other proceedings under the Human Rights Code or the Criminal Code could continue suggested otherwise. In addition, grievances could be filed with respect to the outcomes. If an outcome involved a disciplinary response that was subject to grievance it would necessarily involve litigation of the facts which gave rise to the outcome.

Similarly, it was argued that the abuse of process doctrine did not apply and that I should not exercise my discretion in favour of the Employer's position for two reasons. First, the initial process was not a judicial process meeting the minimum requirements of being "judicial" because it was not seen to be an independent, impartial process. Secondly, the grievor had sought to withdraw his complaint under that process. The Board refused to permit him to do so, and in fact required that he participate. The grievor did not voluntarily participate in the steps of the GAP 305 process but was compelled to do so. Following Step 2, if he had not proceeded to Step 3, the Board would have deemed him to have accepted the results of the Step 2 investigation. He was therefore compelled to engage Step 3. In these circumstances it was unfair for the Employer to argue that it was an abuse of process on the part of the grievor to proceed with this grievance. The grievor did not want to engage the GAP 305 process, sought to withdraw from it, and was compelled by the Board's conduct to continue it.

Union counsel also distinguished the cases relied upon by the Employer, and the OLRB decisions which appear not to accept that the health and safety provisions of a collective agreement contain an implied right to a workplace free from harassment. I do not propose to set out all those submissions. I note only that the submissions and the distinctions relied upon by Union counsel have been reviewed and considered in my decision.

The Reply Submissions of the Employer

In his reply submissions Employer counsel also distinguished the cases relied upon by the Union. Again, I do not intend to detail that aspect of the submissions. I note only that those submissions have been considered.

Employer counsel argued that the Union could not use Article 13.053 to circumvent the clear language of the collective agreement which expressly precluded harassment complaints from the grievance/arbitration provisions of the collective agreement. First, it was noted that the grievance did not refer to Article 13.053. More significantly however the parties had expressly and specifically dealt with harassment in Article 13.061 so that, even if harassment can have a health and safety component, it is the harassment articles which govern. To the extent a harassment complaint has an element of health and safety that is something which the arbitrator under the GAP 305 process can consider. Both GAP 305 and Appendix D refer to the *Occupational Health and Safety Act*. That indicated that the arbitrator appointed under the Gap 305 process, like other arbitrators, can consider an employment related statute such as the *Occupational Health and Safety Act*.

Employer counsel addressed the Union's submissions that there were two separate articles dealing with harassment, each with different language, and only one of which

expressly prohibited the complaint from proceeding by way of grievance arbitration. In reply counsel submitted that the two articles complemented each other and that, in the face of the clear language of Article 13.061, it could not be said that the focus of one article (Article 13.061) continued to be sexual harassment while the other article (Article 13.062) dealt with workplace harassment.

In response to the assertion that the Appendix D procedure contravened section 48 (1) of the *LRA*, counsel noted that the only challenge to the process was the agreed upon appointment of the Superintendent of Employee Relations as the arbitrator. The Union had not challenged any other aspect of the Appendix D or GAP 305 process. It was argued that the *LRA* does not contain any statutory requirement that relates to the independence and/or impartiality of arbitrators. Instead, the *LRA* provides that the parties may select or agree upon the arbitrator. Here the parties had selected and agreed upon the Superintendent of Employee Relations as the arbitrator in much the same way as parties to a collective agreement name arbitrators in their collective agreement.

It was submitted that any assertion that it was improper or inappropriate to appoint the Superintendent of Employee Relations because of his position was fully and completely answered by the agreement of the parties. The Union had been unable to refer to a single case where an arbitrator named or agreed upon by the parties was found to lack independence or impartiality. Similarly, any concerns or suggestions of bias or perceived bias (as the Union does not assert that the Superintendent of Employee Relations was in fact biased) is also cured by the fact that the parties mutually agreed upon the Superintendent of Employee Relations as the arbitrator in these types of complaints. Moreover, any challenges to his appointment as the arbitrator must be made to him, and could not be ruled upon by another arbitrator appointed under the "regular" arbitration provisions of the collective agreement. Certainly, any apprehension of bias application must be made to the decision maker or arbitrator as that person is in

the best position to consider that type of allegation. That was not done in the instant case.

It was the Employer's position that any complaint about the method of appointing or selecting the arbitrator to decide harassment complaints fell within the purview of the OLRB under section 48 (3) of the *LRA*. If the Union was of the view that the negotiated and agreed upon arbitration process found in Appendix D and GAP 305 was inadequate or illegal the appropriate forum for that dispute was the OLRB, not another arbitrator.

Counsel emphasized that the application of the Appendix D and GAP 305 process to harassment complaints was negotiated and agreed upon by the parties. One should not lightly interfere with, or ignore, that agreement. The process agreed upon was well-suited to harassment complaints. Given the vast array of employees who could be involve and the multitude of interpersonal conflicts which could give rise to a workplace harassment complaint (teacher/principal, teacher/teacher, teacher/caretaker etc.) one could not assume that the Superintendent of Employee Relations was predisposed to favour one employee over another. No inference of bias can or should be drawn from the position of the Superintendent of Employee Relations within the administrative structure and hierarchy of the Board. Indeed, the higher the position of the decision maker, the more removed he was from the interpersonal disputes between employees. Here for example the Superintendent of Employee Relations negotiated not only with this Union, but also negotiated with the Principals' Association.

Finally, in response to the Union submissions relating to issue estoppel and abuse of process it was Employer counsel's position that the grievance was an attempt to re-litigate the same issue, between the same parties, in circumstances where the matter had been investigated and finally decided pursuant to a process agreed upon by the Union. In this grievance the Union and the grievor were attempting to resile from that

agreed upon procedure because they didn't like the result. That should not be permitted.

Decision

The language of the collective agreement

I have carefully reviewed and considered the submissions of the parties with respect to the appropriate interpretation of the language of the collective agreement. I have concluded that the collective agreement, considered alone, supports the Employer's position that I do not have jurisdiction to arbitrate this grievance. The language employed by the parties in Article 13.061 indicates that it was not their intent that harassment complaints be arbitrated. Article 13.061 contains a clear and express statement to the contrary (**It is understood and agreed that any complaints of harassment, including sexual harassment, shall be dealt with in accordance with the policy and shall not be subject to the grievance and arbitration procedures under this agreement.)**

I do not accept the Union submissions that the grievance is arbitrable because it is filed under Article 13.062, not Article 13.061, and Article 13.062 does not contain an equally clear and express prohibition against arbitration. In my view Articles 13.061 and 13.062 must be read together. When read together it is apparent that the two articles complemented each other insofar as it both bar grievance arbitration and direct the parties to the alternative agreed upon process set out in Appendix D and GAP 305.

The Union argues that the two references in appendix D indicate that it was the intent of the parties to preserve the individual's right to grieve and arbitrate harassment complaints. The Union relied upon, inter alia, language in predecessor collective agreements to support its position that this was the intent of the parties. Similarly, the

Employer relied upon the evolution of the language of the collective agreement and the appendices in support of its position that the intent of the parties was to prohibit grievance arbitration of harassment complaints, and that the brief references to grievance arbitration in appendix D was a mere oversight. Each counsel provided able and persuasive submissions about the parties' intent and why these references were in appendix D either purposely (the Union) or in error and by oversight (the Employer). The difficulty however is that, beyond the language they employed, there is no evidence of the parties' intent as articulated by counsel. In these circumstances I have determined that the clear, specific and explicit prohibition found in Article 13.061 is not overcome by the 2 brief references to a grievance procedure in Appendix D.

I also do not accept the Union's submissions that the grievance is arbitrable under Article 13.053. I need not enter the debate as to whether the health and safety provisions of a collective agreement give rise to an implied and assertable right to freedom of harassment. Here there are specific and express collective agreement articles which address harassment in the workplace. In the face of this clear language there is no need to imply that right. I agree with the Employer's submissions that in the face of explicit language dealing directly with the subject of harassment it is inappropriate to use this health and safety article of the collective agreement to circumvent the expressed intent of the parties that complaints of harassment should not be subject to the grievance and arbitration procedures of the collective agreement.

Having concluded that the language of the collective agreement on its face precludes harassment complaints from the grievance arbitration provisions of the collective agreement, the question really becomes whether such prohibition is void or contrary to section 48 (1) of the *LRA*.

Is Article 13.061 Contrary To Section 48 (1) Of The *LRA*?

The starting point for this analysis is the collective agreement. Does the collective agreement place a contractual obligation on the Employer to provide a harassment free workplace? Put somewhat differently, does the grievor enjoy a right, protected under the collective agreement, to a workplace free from harassment? Articles 13.061 and 13.062 clearly indicate an affirmative answer to that question. Indeed here the parties did not dispute that the grievor had a assertable right to a workplace free from harassment.

What is the effect of this assertable right on the collective agreement provision which prohibits access to arbitration? After many cases dealing with the rights of probationary employees to grieve their discharge when the collective agreement imposed a bar on that type of arbitration, the Ontario Court of Appeal in *Ontario Hydro v. Ontario Hydro Employees' Union, Local 1000 147 DLR (3d) 210* settled what had been a divergence in arbitral awards. The Court of Appeal concluded that if there was a substantive right, that right could give rise to a "difference" which could be subject to arbitration. The Court determined that if there is such a substantive right, restrictions or prohibitions on enforcing that right are void and contrary to the *LRA*.

Further support for this can also be found in *Parry Sound (District) Social Services Administration Board V. OPSEU, Local 324 [2003] 2 SCR 157* which also dealt with the termination of a probationary employee for what were alleged to be discriminatory reasons which violated the Human Rights Code. In that case the Supreme Court of Canada stated:

> 35 . But even if Article 8.06(a) does, in fact, reflect a common intention that the discriminatory discharge of a probationary employee is not an arbitrable dispute, I remain of the view that Ms. O'Brien's grievance is arbitrable. One reason I say this is that s. 48(1) of the *LRA* states that every collective agreement shall provide for the final and binding

> settlement by arbitration of all differences between the parties arising under the collective agreement. Section 48(1) prohibits the parties from enacting provisions stating that a violation of the collective agreement is non-arbitrable. By the operation of s. 5(1) of the *Human Rights Code*, the right of probationary employees to equal treatment without discrimination is implicit in the collective agreement, and thus the discriminatory discharge of a probationary employee constitutes a violation of that agreement. To the extent that Article 8.06(a) establishes that an allegation that the discriminatory discharge of a probationary Employer is non-arbitrable, it is void as contrary to s. 48(1) of the *LRA*.

Here the Employer argues that the process for dealing with the harassment complaints of bargaining unit members which has been agreed upon by the parties in the collective agreement is an alternative dispute process which complies with the statutory requirement for final and binding arbitration. In effect what the Employer argues is that in the case of harassment complaints the procedures set out in Appendix D and GAP 305 is "arbitration" within the meaning of section 48 (1) of the *LRA*. That is the issue to which I turn next. Is the appendix D and GAP 305 process "arbitration" under the *LRA*?

I start by acknowledging that final and binding arbitration is the quid pro quo to the statutory prohibition against the economic sanctions of strike or lockout while the collective agreement is in effect. Final and binding arbitration is integral to the maintenance of peaceful labour relations. That is one of the reasons why arbitrators, and the courts, have not permitted parties to a collective agreement to "contract out" of final and binding arbitration by agreeing, for example, that assertable rights may not be subject to the grievance arbitration process. Again I refer to *Parry Sound (District) Social Services Administration Board* supra, where the Supreme Court stated:

> ...that collective bargaining and grievance arbitration has both a private and public function. The collective agreement is a private contract, but a contract that serves a public function: the peaceful resolution of labour disputes. See for example Professor P. Weiler, "The Remedial Authority of the Labour Arbitrator: Revised Judicial Version" (1974), 52 *Can. Bar Rev.*29, at p. 31. This dual purpose is reflected in the fact that the content of a collective agreement is, in

part, fixed by external statutes. Section 48(1) of the *LRA*, for example, dictates that every collective agreement must provide for final and binding settlement by arbitration of all differences arising under a collective agreement. ...

I also consider it noteworthy that "arbitration" is the only option available under the *LRA*. Unlike, for example, section 57 (2) of the Canada Labour Code RSC 1985, c L-2, which states that collective agreements must "... contain a provision for final settlement without stoppage of work, by arbitration or otherwise, of all differences..." , or Section 84 (1) of the British Columbia Labour Relations Code which states that every collective agreement must contain a provision for final and conclusive settlement, without stoppage of work, "by arbitration or another method agreed to by the parties", in Ontario an alternative to final and binding "arbitration" is not contemplated in the *LRA*.

Employer counsel relies upon *Strofolino* supra where it was stated:

> [26] The factors to be considered in determining whether a procedure is in fact an arbitration are set out in the decision of *Sport Maska Inc. v. Zittrer*, 1988 CanLII 68 (SCC), [1988] 1 S.C.R. 564, 38 DL.R. 221, where Madam Justice L'Heureux-Dubé, at p. 589 S.C.R., identified the factors as:
>
> (a) the terminology used by the parties;
>
> (b) the fact that a decision is final and binding;
>
> (c) the judicial nature of the proceeding; and
>
> (d) the professional status of the third party decision maker.
>
> Madam Justice L'Heureux-Dubé then went on to quote what she referred to as a "brilliant summary" of the common law in this area as given by Lord Wheatley in *Arenson v. Casson Beckman Rutley & Co.*, [1975] 3 All E.R. 901 at pp. 915-16, [1975] 3 W.L.R. 815, where his Lordship said:
>
> > The indicia are as follows: (a) there is a dispute or a difference between the parties which has been formulated in some way or another; (b) the dispute or difference has been remitted by the parties to the person to

> resolve in such a manner that he is called on to exercise a judicial function; (c) where appropriate, the parties must have been provided with an opportunity to present evidence and/or submissions in support of their respective claims in the dispute; and (d) the parties have agreed to accept his decision.

With respect to the "judicial nature" of the proceedings, Employer counsel referred to *Concord Pacific* supra where it was held:

> [28] The tests of whether an appointed person is performing a judicial function mentioned in *Russell on The Law of Arbitration* (20th ed.), at p. 119, are described in these terms:
>
> An arbitrator or quasi-arbitrator does not act in a judicial manner unless:
>
> 1. He is jointly engaged by the parties;
> 2. A dispute is submitted to him;
> 3. He is not a mere investigator but evidence or submissions are put before him for examination and consideration;
> 4. He gives a decision which the parties have agreed to accept.

Neither of these cases involves a labour arbitration under the *LRA*. That fact, plus the very different facts and circumstances at issue in these cases, mean those decisions are readily distinguishable. Simply put, arbitrations under the *LRA* are not the same as arbitrations under other statutes, including the *Arbitrations Act*. (The *LRA* specifically indicates that the Arbitrations Act does not apply to arbitrations under collective agreements (see section 48 (20)). Nevertheless these cases have informed my conclusion about whether the process to deal with harassment complaints agreed upon by the parties to this collective agreement constitute final and binding "arbitration" within the meaning of section 48 of the *LRA*.

First, the terminology used by the parties is <u>not</u> suggestive of the intent that this process is "arbitration." Neither GAP 305 nor Appendix D refer to the process as an "arbitration" or the Superintendent of Employee Relations as an "arbitrator." In my view, by expressly precluding harassment complaints from the arbitration procedures of the

collective agreement, the parties have expressed their intent to deal with these types of complaints through a process that is something other than arbitration. In Article 13.061 the parties recognize that there are two processes. Excluding harassment complaints from the "regular" grievance arbitration process and agreeing that such complaints proceed through some other, alternative dispute resolution process, does not mean that the parties have agreed that the alternative dispute resolution process is "arbitration". And, as indicated, unlike other jurisdictions, the *LRA* does not provide for another alternative dispute resolution process. It must be final and binding settlement by arbitration.

That is the second factor to be considered in determining whether a process or procedure is, in fact, "arbitration." Is it final and binding? In some sense this factor is interrelated with the third factor, namely the "judicial nature" of the proceeding. The decision can be said to be final and binding and judicial only if the parties have agreed that they will accept the decision made by the arbitrator after he has heard and considered their evidence and submissions regarding the difference the parties have agreed to put before him. Having examined the Appendix D and GAP 305 process I'm not able to accept that the decision of the Superintendent of Employee Relations is final and binding in this judicial sense.

Neither Appendix D to the collective agreement, nor GAP 305 state that the parties have agreed to accept the decision of the Superintendent of Employee Relations as final. Indeed, both GAP 305 and Appendix D specifically indicate that a party to the process can continue to pursue claims with respect to harassment in other forums. Nothing in Appendix D or GAP 305 precludes or prevents the complainant from seeking adjudication and remedial relief with respect to the claim of harassment in other forums including those under the Human Rights Code or the Criminal Code.

In my view it also can't be said that the decision of the Superintendent of Employee Relations is final because his decision may result in one of the "outcomes" set out in Appendix D and GAP 305. One of those outcomes may be "disciplinary action." It is not disputed between the parties that if discipline results, that discipline may be subject to grievance. If it is, the arbitrator hearing that discipline grievance will necessarily have to make a decision as to whether the facts upon which the Superintendent of Employee Relations made his decision constitute just cause. In those circumstances it can't be said that the decision of the Superintendent of Employee Relations is final.

The Employer has argued that if discipline is imposed the issues before the arbitrator hearing the discipline grievance are different than the issue decided by the Superintendent of Employee Relations under Appendix D and GAP 305. The arbitrator of the discipline grievance must decide if there was just cause and if discipline should have been imposed. On the other hand the Superintendent of Employee Relations must decide if harassment occurred. In my view the issues cannot be parsed so finely. Indeed, the fact that the Superintendent of Employee Relations must decide upon an "outcome" highlights why the decision of the Superintendent of Employee Relations is not an arbitration under the *LRA*, and why the Appendix D and GAP 305 process is not "arbitration" under the *LRA*.

The purpose of arbitration under the *LRA* is the prompt, final and binding settlement of differences "arising from the interpretation, application, administration or alleged violation" of the collective agreement. Under the *LRA* an arbitrator sits in review of the decisions and actions taken by the parties bound by the collective agreement. It is that third-party review which is the trade-off to the parties taking matters into their own hand to resolve differences during the currency of the collective agreement.

In some cases the arbitrator reviews and must decide the difference between the parties as it relates to their respective interpretations of the language of the collective agreement. In other cases the arbitrator reviews and must decide a difference arising as a result of the conduct or actions taken by a party to the collective agreement. In a discipline case, for example, the arbitrator reviews the conduct of the grievor and the decision or action taken by the Employer to impose discipline i.e. did the grievor violate the agreement? Was the Employer's action in imposing discipline just? In other types of cases dealing primarily with the administration, application and alleged violation of the collective agreement, the matter for the arbitrator to review and decide might be whether the actions of a party violated the collective agreement i.e. did the Union's actions violate an obligation set out in the collective agreement not to engage in a legal strike activity? Did the Employer properly administer and apply the collective agreement when it denied a grievor's vacation request? Did the Employer properly apply and administer the collective agreement in establishing the work schedules of employees? etc. One can readily think of a multitude of issues and fact situations which give rise to a grievance. In the labour relations context the common thread of the arbitration of those grievances is that it engages the arbitrator, a third party, in a review of the conduct or action taken by either the Employer or the Union. That third party review of the conduct or action taken by one of the parties to the collective is not present in Appendix D or Gap 305.

It is true that under Appendix D in 305 the Superintendent of Employee Relations receives the investigative report and "reviews" the conduct of the complainant and respondent to make a decision about what happened. He must decide if harassment occurred. Thus he is a "decision maker" in so far as he makes a "determination of the matter" based on the Step 3 investigation which was conducted. However, under Appendix D and Gap 305 the Superintendent's role is not limited merely to receiving the investigative report and making a determination of "what happened" and whether the harassment complained of occurred. The Superintendent of Employee Relations must

also determine whether what happened violated the Board's policies relating to harassment and what action must be taken, or what "outcome" is appropriate if that is the case. In effect the Superintendent of Employee Relations takes those actions on behalf of the Board which is a party to the collective agreement. It is inconsistent with the neutral adjudication process which is encompassed within the parameters of a "labour arbitration" that in making a decision about what action an Employer should take the Employer's own representative is acting as an arbitrator of a difference under the collective agreement as set out in the *LRA*. Unlike a labour arbitrator who reviews actions taken by the Employer, the Superintendent of Employee Relations is in fact deciding and directing what actions should be taken by the Employer. He is taking the action, not reviewing it.

Although a minor point, that the Superintendent of Employee Relations is not merely adjudicating upon the matter, but is taking action on behalf of the Board, is also evident from the Board's response when the grievor sought to withdraw his complaint. At that time the Board stated that upon filing of the complaint the Board assumes ownership of it and determines how to proceed.

With respect to the "outcomes" in theory it is certainly open to the Superintendent of Employee Relations not to take any action following the Step 3 investigation. In my view however, in the labour relations context, such inaction may give rise to a "failure to act" grievance which can be reviewed by an arbitrator. A grievor or Union may file a grievance alleging, for example, that by the failure to act the Employer has violated the collective agreement. In the case of a harassment complaint for example it is possible to claim that the failure to act was a violation of the collective agreement because it caused, created or continued a workplace which was not free from harassment contrary to Article 13.062. In those circumstances although the Superintendent of Employee Relations has made a decision (not to act) that is not the same as the decision of an arbitrator who reviews the Employer's decision not to act.

This leads me naturally to the grievance in this case and the Appendix D and GAP 305 process in the facts and circumstances of this case.

Here the complaint of harassment does not involve two members of the bargaining unit. The grievance asserts that "the Board through its principal ... engaged in a pattern of harassment..." The alleged source of the harassment is not another member of the bargaining unit, but a Board employee, statutorily excluded from the bargaining unit because of his "supervisory" responsibilities as school principal. In effect, from a labour relations perspective, the principal is the agent of the Employer. As evidenced by the language of the grievance the Board acts through its agents, including its principals. Where the alleged acts of harassment come from an "agent" of the Employer, it is at odds with generally accepted notions of the neutral third party review which is at the heart of labour arbitration that the Employer itself, acting through another one of its supervisory agents (the Superintendent of Employee Relations) act as arbitrator to review and adjudicate upon the actions undertaken by that agent. It may be different if the facts and circumstances involve any alleged action, omission or impropriety on the part of an employee who can't be seen to be acting as agent of the Employer. That however is not the case in the circumstances giving rise to this grievance where the claim is that the Employer, through its agent, the principal, has violated the collective agreement. In that case it is no answer to say, in effect, that this issue can't be arbitrated because the Employer itself has already arbitrated or determined the matter.

Finally, I have not dealt with any issues as to whether or not the Superintendent of Employee Relations has the powers extended to arbitrators under section 48 (12) of the *LRA*. The parties did not address that in their submissions. However, although not referenced in the submissions of the parties I would be remiss if I did not express that I have a concern as to whether the "determination of the matter" made by the Superintendent of Employee Relations and his decision with respect to the "outcomes" is enforceable under section 48 (19) of the *LRA*.

For these reasons I have determined that the role of the Superintendent of Employee Relations under Appendix D and the GAP 305 process is not as an "arbitrator" who makes a final and binding decision of the difference between the parties arising from the interpretation, application administration or alleged violation" of the collective agreement. Although the Superintendent of Employee Relations is a decision maker, he is not an arbitrator under the *LRA*.

In arriving at this conclusion I have not found it necessary to address the fourth factor set out in *Sport Maska Inc.* supra to determine if the process is in fact "arbitration" namely, "the professional status of the third-party decision maker." Neither have I found it necessary to specifically address the Union's submissions relating to independence and impartiality. With respect to these matters I note only that, quite properly, issues were not raised about the professional status of the Superintendent of Employee Relations, nor was there any allegation that he was in fact biased or unable to be impartial. The Union's submissions were based entirely on the appearance of independence and partiality resulting from the structural relationship of his position within the Employer's organization. Because of that relationship he cannot be seen to be a "third-party decision maker" who sits in review of the conduct of one of the parties to the collective agreement.

I turn next to the Employer's submissions that the proper forum in which the Union must raise its concerns that the arbitration process established in Appendix D and GAP 305 is inadequate (for whatever reason, including the appointment of the Superintendent of Employee Relations as arbitrator) is the OLRB.

I accept the Union's submissions that the issue before me is whether I have jurisdiction to hear this grievance. In making that determination I have had to determine whether the prohibition against arbitrating harassment complaints contained in Article 13.061 is

valid or void because it is contrary to section 48(1) of the *LRA*. The Union does not request that I "modify the provision" as set out in section 48 (3) of the *LRA* or that I amend the collective agreement. In this regard I adopt also the reasoning of the Court of Appeal in *Ontario Hydro* supra

> 19. These arguments are buttressed by reference to s. 37(3) [now s. 48(3)] of the Labour Relations Act. If one of the parties to a collective agreement believes that the dispute resolution provision agreed to by the parties is unsuitable or inadequate, then it may apply to the Ontario Labour Relations Board to have the provision modified. Section 37 [now s. 48] constitutes a comprehensive scheme to remedy situations of noncompliance with s. 37(1) [now s. 48(1)]. In the light of this it is not open to a board of arbitration to apply s. 37 (1) to the agreement under which it is constituted. The board must apply and give effect to the provisions of the collective agreement as established by the parties. The Ontario Labour Relations Board has exclusive jurisdiction under s. 37 (3) to ensure that the collective agreement complies with s. 37 (1).
>
> 20. In my respectful opinion, this composite submission is not tenable. It attributes to s. 37 an unreasonable rigidity. I accept that the primary function of s. 37 (1) is to require parties to a collective agreement to include an arbitration provision in the agreement of the type described in the subsection and that if an agreement, in the opinion of the Ontario Labour Relations Board, fails to include an adequate or suitable arbitration provision, the Board under s. 37 (3) can modify the provision in the agreement. However, these considerations do not suggest to me that this is the exclusive manner in which these provisions may be applied.
>
> 21. The fundamental policy of s. 37 is that there be recourse to arbitration of all differences arising during the life of the collective agreement. This is emphasized by that part of s. 37(3) which provides that whatever modification of an arbitration provision is made under that subsection the provision must conform to subsection (1). There is ample scope for the modification function of the Board under s. 37 (3),e.g. with respect to mechanical shortcomings of various kinds, without attributing to that subsection an intention that it is exclusively the function of the Board to implement the fundamental policy of s. 37. It would be an ironic result, I think, if s. 37 (3) were interpreted as sanctioning, until the Board acted, a term in an agreement which contravene s. 37(1) and left the parties without recourse to arbitration. As I shall note, the parties in the agreement have provided for the substantive right... and a general right to arbitrate all differences... and so the rendering void of the implicit bar to arbitration... does not involve the Board in the creative function envisaged by s. 37 (3).

> 22. Accordingly, it seems reasonable to me to think that s. 37 (1) is also applicable to a case where an arbitrator concludes on his or her interpretation of the collective agreement that there is a "difference" between the parties as described in s. 37 (1) but that the agreement contains a provision which bars access to arbitration to resolve the difference. In such circumstances the provision which bars access runs flatly contrary to the language and policy of this subsection and it is the duty of the arbitrator to refuse to apply it on the ground that it contravenes the public law of this province.
>
> 23. If the arbitrator does this he is not himself modifying the agreement. It is the law which does so-but solely to the extent of excising a provision which is contrary to it.... the function of the statutory provision is merely to render void the prohibition of resort to arbitration contained in one part of the agreement...

Finally I turn to the Employer's position that this is an abuse of process and I should exercise my discretion and not hear this grievance. There have been two investigations and two decisions made pursuant to a process agreed upon by the Union - a process into which the Union had full input. The grievor was represented by the Union during that process.

In this regard I'm very sympathetic to the Employer's position. The Appendix D and GAP 305 procedure is a detailed, and well thought-out process which has considerable merit and a number of benefits as articulated by Employer counsel. It is a viable alternative to the adversarial, litigious arbitration process for dealing with workplace harassment complaints and its use should be encouraged and not discouraged. I'm also cognizant of the fact that in employing the GAP 305 process through two investigations the Board has expended considerable time and resources in responding to the grievor's complaint. Nevertheless, in the specific facts and circumstances of this

case, I'm not satisfied that I should exercise my discretion in favour of the Employer's motion and not hear this case.

Here, at an early stage, the grievor sought to withdraw his complaint from the GAP 305 process. He was not trying to ride two horses. He wanted to pursue his claim under the grievance arbitration provisions of the collective agreement. He was not permitted to withdraw his complaint and was compelled to continue his participation until the GAP 305 process had run its course. When he tried to withdraw his complaint the Employer indicated it had ownership of the complaint and would determine how it would proceed under the GAP 305 process. In these circumstances I am not satisfied that it is an abuse of process on the part of the grievor to seek to continue with the grievance procedure he initiated before any investigation under GAP 305 was commenced and after he had indicated he wished to withdraw his complaint.

For all of these reasons the Employer's motion is dismissed. I will assume jurisdiction over the grievance.

The matter will be continued on dates to be agreed upon by the parties.

Dated at Mississauga this 7 th day of October, 2012.

Louisa Davie

Louisa M. Davie

DUFFERIN-PEEL CATHOLIC DISTRICT SCHOOL BOARD

ONTARIO ENGLISH CATHOLIC TEACHERS ASSOCIATION – DUFFERIN-PEEL (*OECTA*) SECONDARY UNIT

LETTER OF UNDERSTANDING #27 - ARTICLE 9.015

The parties agree that the process outlined below will replace the existing Article 9.015 as stated in the 2008-2012 Collective Agreement.

9.015 Grievances shall be settled in the following manner:

Each of the parties, in consultation with their respective representative (the Unit or the Board), are encouraged to discuss and attempt a resolution, where possible, at the local level, prior to filing a grievance. Should the matter not be resolved within fifteen working days of the issue being identified to the other party it shall proceed to Step 1.

Step 1

(i) A Teacher having a grievance arising under this Agreement shall submit via the Unit, a written grievance to the Superintendent, Employee Relations, or the Superintendent's designate.

(ii) The grievance must be submitted within ten (10) working days after the Teacher first became aware of, or would reasonably be expected to become aware of, the circumstances giving rise to the grievance. A grievance must be submitted during the life of this Agreement, except where fifteen (15) days from the circumstance giving rise to the grievance have not elapsed prior to the expiration of the Agreement. Under no circumstances will such a grievance be submitted fifteen (15) days beyond the life of the previous Collective Agreement.

(iii) The Superintendent, Employee Relations or the Superintendent's designate, shall meet with the Association within fifteen (15) working days to discuss the grievance. This will be followed up with a written response as soon as possible but no longer than five (5) days after the grievance meeting.

(iv) The grievor may be accompanied by a representative of the Dufferin-Peel Secondary Unit.

Step 2

(i) If the Teacher initiating the grievance is not satisfied with the reply at Step 1, or if no reply is received within the time for reply set out in Step 1, such Teacher, via theUnit, may, within five (5) working days after the reply at Step 1 has been or should have been given, refer the grievance to an Associate Director, or designate Superintendent appointed by the Chairperson of the Board.

(ii) The Associate Director, or designate Superintendent, shall meet with the Association within fifteen (15) working days after submission of the grievance to hear the grievance. This will be followed up with a written response as soon as possible, but no more than five (5) days after the grievance meeting.

~~Step 3~~

~~(i) If the Teacher initiating the grievance is not satisfied with the reply at Step 2 or if no reply is received within the time for reply set out in Step 2, such Teacher, via the Unit, may within five (5) working days after the reply at Step 2 has been or should have been given, refer the grievance to a panel of three (3) Trustees.~~

~~(ii) The grievor may be accompanied by up to three (3) representatives of the Dufferin-Peel Secondary Unit.~~

~~(iii) The Board shall reply in writing within five (5) working days following the meeting with the panel of three (3) Trustees to which the grievance was referred.~~

~~(iv) By mutual consent of both parties, the grievance shall be referred directly to arbitration pursuant to Article 10.~~

~~(v) If the Teacher initiating the grievance is not satisfied with the reply at Step 3 (i), the grievance may be referred to arbitration, via the Unit, pursuant to Article 10 hereof, provided such action is taken within ten (10) working days of the reply at Step 3.~~

(iii) If the Teacher initiating the grievance is not satisfied with the reply at Step 2(ii) or if no reply is received within the time for reply set out in Step 2, such Teacher, via the Unit, may within ten (10) working days after the reply at Step 2(ii) has been or should have been given, refer the grievance to Arbitration.

DATED AT MISSISSISSAUGA THIS 28 DAY OF MARCH, 2013

FOR THE BOARD

FOR THE UNION:

DPSU DUFFERIN-PEEL SECONDARY UNIT

May 31, 2013

Joe Geiser
Superintendent – Employee Relations
Dufferin-Peel Catholic District School Board
40 Matheson Blvd. West
Mississauga, Ontario
L5R 1C5

Dear J. Geiser;

As you are aware, the Ontario Government and the Ontario English Catholic Teachers Association recently signed off on an updated Memorandum of Understanding which was originally agreed to July 5, 2012. Section P of the MoU, euphemistically known as the "me-too" clause, allowed the Association to pursue enhancements negotiated by other unions from the educational sector who achieved MoUs of their own.

The Association identified two elements of the updated MoU; namely the STLDP and the Maternity Leave Benefits to be decided by the local Units. Our Unit Executive, on behalf of the membership, has chosen the OSSTF MoU maternity leave benefit to replace the maternity benefits under the OECTA MoU. This enhancement would see teachers on maternity leave receiving eight weeks of 100% salary as opposed to 6 weeks of 100% salary effective May 1, 2013. With regards to the STLDP our membership was consulted and they have overwhelmingly chosen to stay with the OECTA STLDP model which the Board implemented as the SSP on February 1, 2013. This model will be maintained throughout the 2013-2014 School Year.

The updated agreement calls for at least two and no more than six full-days of local implementation discussions to occur immediately and conclude by June 28, 2013. These implementation discussions are to deal with the items identified above as well as other enhancements agreed to which emanate from the OSSTF agreement including: attendance recognition, VLAP and the formation of a reconciliation committee to track cost savings. The Unit would also like to discuss clarifications to the 2012 MoU which are referenced on pages 14 and 15 of the OECTA MoU update.
The Unit looks forward to hearing from you soon to schedule implementation discussion sessions over the next month.

Sincerely,

Peter MacDonald
President – Dufferin-Peel Secondary Unit

c.c. Unit Executive
I. Baczynsky – OECTA Collective Bargaining Department
G. DiCiocco – OECTA Contract Services Department
N. Milanetti – Superintendent of Human Resources
J. Horgan – Manager of Employee Relations
J. Baechler – Principal (Secondary) of Employee Relations

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