

Article G.6: Leave for Union Business

❖ Overview

This article establishes an entitlement to leave for union business for employees. The purpose of the provision is to provide leave to employees who are authorized by the local union or BCTF to be absent from work to conduct union business.

❖ Article G.6: Leave for Union Business

1.
 - a. *Any union member shall be entitled to a leave of absence with pay as authorized by the local union or BCTF and shall be deemed to be in the full employ of the board.*
 - b. *'Full employ' means the employer will continue to pay the full salary, benefits, pensions contributions and all other contributions they would receive as if they were not on leave. In addition, the member shall continue to be entitled to all benefits and rights under the Collective Agreement, at the cost of the employer where such costs are identified by the Collective Agreement.*
2. *The local or BCTF shall reimburse the board for 100 per cent of such salary, benefits, pension contributions and all other contribution costs upon receipt of a monthly statement.*
3. *Where a TTOC replaces the member on union leave, the reimbursement costs paid by the local or the BCTF shall be the salary amount paid to the TTOC.*
4. *Where a non-certified replacement is used, the reimbursement costs paid by the local or the BCTF shall be the salary amount paid to the replacement.*
5. *Where teacher representatives are requested by the board to meet on union-management matters during instructional time, representative(s) shall be released from all duties with no loss of pay.*

Short-term leave (leave of 10 consecutive school days or less)
6. *Such leave will be granted subject to the availability of a qualified replacement. The request shall not be unreasonably denied.*

Long-term leave (leave of more than 10 consecutive school days)

7. *Such leave will be granted subject to the availability of a qualified replacement and educational needs of the school district. The request shall not be unreasonably denied.*
8. *Upon return from leave, the employee shall be assigned to the same position or, when the position is no longer available, a similar position.*

Elected union officer release

9. *Such leaves will be granted upon request.*
10. *Upon return from leave, the employee shall be assigned to the same position or, when the position is no longer available, a similar position.*

Implementation:

The parties will develop a schedule of articles that are replaced by this article. Where a superior provision is identified in the previous collective agreement, this provision will not apply and the superior provision will continue to apply.

❖ **Explanation**

- G.6.1**
1. a. *Any union member shall be entitled to a leave of absence with pay as authorized by the local union or BCTF and shall be deemed to be in the full employ of the board.*
 - b. *'Full employ' means the employer will continue to pay the full salary, benefits, pensions contributions and all other contributions they would receive as if they were not on leave. In addition, the member shall continue to be entitled to all benefits and rights under the Collective Agreement, at the cost of the employer where such costs are identified by the Collective Agreement.*

G.6.1 establishes that any employee who is authorized by the local union or BCTF to a leave of absence with pay to conduct business will continue to be deemed in the full employ of the board. The employee will receive the same total compensation and be entitled to all rights under the Collective Agreement as they would if they were not on leave.

- G.6.2**
2. *The local or BCTF shall reimburse the board for 100 per cent of such salary, benefits, pension contributions and all other contribution costs upon receipt of a monthly statement.*

G.6.2 establishes that the board will be fully reimbursed by the local or BCTF for all compensation costs.

What if there is no replacement?

Arbitrator Irene Holden's December 15, 2014 award found in favour of BCPSEA's position that G.6.3 (TTOC replacement) and G.6.4 (Non-certified replacement) are exceptions to the general rule established in G.6.2. This means that G.6.2 applies even when there is no replacement for the leave.

- G.6.3** 3. *Where a TTOC replaces the member on union leave, the reimbursement costs paid by the local or the BCTF shall be the salary amount paid to the TTOC.*

G.6.3 establishes that in the case of a TTOC replacing an employee on union leave the reimbursement costs shall be the salary amount paid to the TTOC. Pursuant to the January 29, 2014 arbitration decision of Irene Holden, the union is responsible for reimbursing only salary (not benefits or pension) when a TTOC is used to replace under G.6.

- G.6.4** 4. *Where a non-certified replacement is used, the reimbursement costs paid by the local or the BCTF shall be the salary amount paid to the replacement.*

G.6.4 establishes that in the case of a non-certified replacement replacing an employee on union leave the reimbursement costs shall be the salary amount paid to the replacement.

- G.6.5** 5. *Where teacher representatives are requested by the board to meet on union-management matters during instructional time, representative(s) shall be released from all duties with no loss of pay.*

G.6.5 establishes that the employer shall release teacher representatives who are requested by the board to meet on union-management matters during instructional time with no loss of pay.

G.6.6 *Short-term leave (leave of 10 consecutive school days or less)*

6. *Such leave will be granted subject to the availability of a qualified replacement. The request shall not be unreasonably denied.*

G.6.6 establishes that short-term leave of less than 10 consecutive school days shall granted provided there is a qualified replacement available. A qualified replacement is a teacher with the education and experience qualifications required to teach the subject in question. This leave may be taken in smaller blocks of time, in increments of one day or more.

G.6.7 *Long-term leave (leave of more than 10 consecutive school days)*

7. *Such leave will be granted subject to the availability of a qualified replacement and educational needs of the school district. The request shall not be unreasonably denied.*

G.6.7 establishes that a long-term leave will be granted if there is a qualified replacement available and the educational needs of the school district are not compromised. For example, if the employee requesting leave intends to be out of the school for the entire month of June, this may not meet the requirements of the school district who require the teacher to be there in June for educational reasons. A leave is considered long term if it is for more than 10 consecutive school days.

G.6.8 8. *Upon return from leave, the employee shall be assigned to the same position or, when the position is no longer available, a similar position.*

G.6.8 makes clear that an employee returning from a leave for union business has the right to be placed back in the same job or in a comparable position to the one held at the commencement of the leave. As with each other type of leave under the *Employment Standards Act*, an employer must not terminate an employee or change a condition of employment without the employee's consent because the employee is on leave, and as soon as the leave ends, the employer must place the employee in the position he/she held prior to taking the leave or in a comparable position.

This provision does not supersede layoff provisions which may cause the employee to lose the position, or require the employee to move to a new position because of inferior seniority.

G.6.9 *Elected union officer release*

9. *Such leaves will be granted upon request.*

Elected union officers will be granted leave upon request. The elected office may be with the local union or the BCTF.

- G.6.10** 10. *Upon return from leave, the employee shall be assigned to the same position or, when the position is no longer available, a similar position.*

G.6.10 is identical to G.6.8 and makes clear that an employee returning from a leave for union business has the right to be placed back in the same job or in a comparable position to the one held at the commencement of the leave. As with each other type of leave under the *Employment Standards Act*, an employer must not terminate an employee or change a condition of employment without the employee's consent because the employee is on leave, and as soon as the leave ends, the employer must place the employee in the position he/she held prior to taking the leave or in a comparable position.

This provision does not supersede layoff provisions which may cause the employee to lose the position, or require the employee to move to a new position because of inferior seniority.

Implementation:

The parties will develop a schedule of articles that are replaced by this article. Where a superior provision is identified in the previous collective agreement, this provision will not apply and the superior provision will continue to apply.

A schedule will be developed outlining which collective agreement language applies.

❖ Implementation

This article was effective upon ratification of the 2011-2013 collective agreement language (July 4, 2012), per Arbitrator Holden's January 29, 2014 decision and governs leaves commencing after the date of ratification where the local union has adopted G.6. Where an employee was already on approved Union leave under previous collective agreement language the leave will continue under the existing language until it is completed.

2011-2013 Melding/Interfacing Issues

Mark Brown was appointed as Mediator/Arbitrator to resolve melding/interfacing issues with respect to the 2011-2013 Collective Agreements. Arbitrator Brown concluded that Article G.6 Leave for Union Business can be separated into four provisions for the purposes of melding/interfacing the new provincial article with existing local articles:

- Short term leave at clause G.6.6;
- Long term leave at clauses G.6.7 and G.6.8;
- Elected union officer release at clauses G.6.9 and G.6.10; and
- Payment/reimbursement clauses at clauses G.6.1 through G.6.5.

He interpreted the G.6 implementation note to differentiate between "article" and "provision" and thus concluded that if the local agreement contains a superior provision to the four provisions noted above, the provision in G.6 will

not apply and the superior provision will continue to apply.

❖ Relationship to Other Articles

Locals cannot cherry pick portions of local union leave provision(s) and portions of G.6 provision. The local must adopt either the entirety of a G.6 provision (see Implementation above) or the entire corresponding provision from the existing collective agreement. For example, a local may choose to utilize G.6 for short term union leave but keep their local language long term union leave.

❖ Key Arbitrations

There are three key arbitrations pertaining to the application and interpretation of Article G.6. They are:

- 1) Irene Holden, *Re: Reimbursement for Union Leave – Employer Grievance Section 104 of the Labour Relations Code – Case 65618/13R*, awarded January 29, 2014.
- 2) Mark Brown, *Re: 2011 – 2013 Melding / Interface Issues*, awarded February 24, 2014.
- 3) Irene Holden, *Re: Reimbursement and Retroactivity for Union Leave (Article G.6 of the Provincial Collective Agreement)*, awarded December 15, 2014.