



## Bargaining Proposal—2019

Proposal Number: U64

Date: May 15, 2019 Time: 2:44pm

### ARTICLE A.6 GRIEVANCE PROCEDURE

#### 1. Preamble

The parties agree that this article constitutes the method and procedure for a final and conclusive settlement of any dispute (hereinafter referred to as "the grievance") respecting the interpretation, application, operation, or alleged violation of this Collective Agreement, including a question as to whether a matter is arbitrable. The grievance ~~process~~ **procedure** may be initiated by either party. **At any Step Two or Step Three meeting, as referred to in Article A.6, both parties shall have a representative with the ability to engage in the grievance procedure with the authority to resolve the dispute.**

#### Steps in Grievance Procedure

#### 2. Step One

- a. The local or an employee alleging a grievance ("the grievor") shall request a meeting with the employer official directly responsible, and at such meeting they shall attempt to resolve the grievance summarily. Where the grievor is not the local, the grievor shall be accompanied at this meeting by a representative appointed by the local.
- b. The grievance must be raised within thirty (30) working days of the alleged violation, or within thirty (30) working days of the party becoming reasonably aware of the alleged violation.

#### 3. Step Two

- a. If the grievance is not resolved at Step One of the grievance procedure within ten (10) working days of the date of the request made for a meeting referred to in Article A.6.2.a the grievance may be referred to Step Two of the grievance procedure in writing, between the president or designate and the superintendent or designate. The superintendent or designate shall **forthwith** meet with the president or designate of the local, ~~within ten (10) working days~~, and attempt to resolve the grievance.
- b. The grievance shall be presented in writing giving the general nature of the grievance.

- c. **The respondent must shall provide a detailed written response including a rationale for their decision, in writing, within five (5) working days to the Step Two meeting referred to in Article A.6.3.a.**

#### 4. Step Three

- a. If the grievance is not resolved within ten (10) working days of the referral to Step Two in Article A.6.3.a, within a further ten (10) working days the president or designate and/or the superintendent or designate may refer the grievance, in writing, to Step Three of the grievance procedure. Two representatives of the local and two representatives of the employer shall meet within ten (10) working days, and attempt to resolve the grievance.

If both parties agree and the language of the previous Local Agreement stipulates:

- i. the number of representatives of each party at Step Three shall be three; and/or
- ii. at least one of the employer representatives shall be a trustee.

- b. **The respondent must shall provide a detailed written response including a rationale for their decision, in writing, within five (5) working days to the Step Three meeting referred to in Article A.6.4.a.**

~~b-c.~~ If the grievance involves a Provincial Matters issue, in every case a copy of the letter shall be sent to BCPSEA and the BCTF.

#### 5. **Omitting Steps**

- a. Nothing in this Collective Agreement shall prevent the parties from mutually agreeing to refer a grievance to a higher step in the grievance procedure.
- b. Grievances of general application may be referred by the local, BCTF, the employer or BCPSEA directly to Step Three of the grievance procedure.

~~e. Where an employer files a grievance it will be filed at Step Three.~~

#### 6. **Referral to Arbitration: Local Matters**

- a. If the grievance is not resolved at Step Three within ten (10) working days of the meeting referred to in Article A.6.4, the local or the employer where applicable may refer a "local matters grievance," as defined in Letter of Understanding No. 1 (LOU 1) ~~Appendix 2 and Addenda~~, within a further fifteen (15) working days to:
  - i. arbitration, or
  - ii. expedited arbitration in accordance with Article A.7.

- b. The referral to arbitration shall be in writing and should note that it is a “local matters grievance.” The parties shall agree upon an arbitrator within ten (10) working days of such notice.

## **7. Referral to Arbitration: Provincial Matters**

- a. If the grievance is not resolved at Step Three within ten (10) working days of the meeting referred to in Article A.6.4, the BCTF or BCPSEA where applicable may refer a “provincial matters grievance,” as defined in LOU 1 Appendix 1 and Addenda, to arbitration within a further fifteen (15) working days.
- b. The referral to arbitration shall be in writing and should note that it is a “provincial matters grievance.” The parties shall agree upon an arbitrator within ten (10) working days of such notice.
- c. Review Meeting:
  - i. Either the BCTF or BCPSEA may request in writing a meeting to review the issues in a provincial matters grievance that has been referred to arbitration.
  - ii. Where the parties agree to hold such a meeting, it shall be held within ten (10) working days of the request, and prior to the commencement of the arbitration hearing. The scheduling of such a meeting shall not alter in any way the timelines set out in Article A.6.7.a and A.6.7.b of this article.
  - iii. Each party shall determine who shall attend the meeting on its behalf.

## **8. Arbitration (Conduct of)**

- a. All grievances shall be heard by a single arbitrator unless the parties mutually agree to submit a grievance to a three-person arbitration board.
- b. The arbitrator shall determine the procedure in accordance with relevant legislation and shall give full opportunity to both parties to present evidence and make representations. The arbitrator shall hear and determine the difference or allegation and shall render a decision within sixty (60) days of the conclusion of the hearing.
- c. All discussions and correspondence during the grievance procedure or arising from Article A.6.7.c shall be without prejudice and shall not be admissible at an arbitration hearing except for formal documents related to the grievance procedure, i.e., the grievance form, letters progressing the grievance, and grievance responses denying the grievance.
- d. Authority of the Arbitrator:
  - iv. It is the intent of both parties to this Collective Agreement that no grievance shall be defeated merely because of a technical error in processing the grievance through the grievance procedure. To this end an arbitrator shall have the power to allow all necessary amendments to the grievance and the power to waive formal procedural irregularities in the processing of a grievance in order to determine the real matter in dispute and to render a decision according to equitable principles and the justice of the case.

- v. The arbitrator shall not have jurisdiction to alter or change the provisions of the Collective Agreement or to substitute new ones.
- vi. The provisions of this article do not override the provisions of the B.C. Labour Relations Code.
- e. The decision of the arbitrator shall be final and binding.
- f. Each party shall pay one half of the fees and expenses of the arbitrator.

## 9. General

- a. After a grievance has been initiated, neither the employer's nor BCPSEA's representatives will enter into discussion or negotiations with respect to the grievance, with the grievor or any other member(s) of the bargaining unit without the consent of the local or the BCTF.
- b. The time limits in this grievance procedure may be altered by mutual written consent of the parties.
- c. If the local or the BCTF does not present a grievance to the next higher level, they shall not be deemed to have prejudiced their position on any future grievance.
- d. No employee shall suffer any form of discipline, discrimination or intimidation by the employer as a result of having filed a grievance or having taken part in any proceedings under this article.
- e.
  - i. Any employee whose attendance is required at any grievance meeting pursuant to this article, shall be released without loss of pay when such meeting is held during instructional hours. If a teacher teaching on call is required, such costs shall be borne by the employer.
  - ii. Any employee whose attendance is required at an arbitration hearing shall be released without loss of pay when attendance is required during instructional hours; and
  - iii. Unless the previous Local Agreement specifically provides otherwise, the party that requires an employee to attend an arbitration hearing shall bear the costs for any teacher teaching on call that may be required.

~~—End of Proposed Language—~~

### Implementation of Article

~~The Parties agree that this article deletes and replaces Article A.6 of the Provincial Collective Agreement including any related local provisions.~~

**Any and all superior provisions contained in the previous Collective Agreement shall remain part of the Collective Agreement.**

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
For BCTF

\_\_\_\_\_  
For BCPSEA