

SETTLEMENT AGREEMENT

Between:

British Columbia Public School Employers' Association ("BCPSEA")

and

British Columbia Teachers' Federation ("BCTF")

(collectively referred to as "the Parties")

RE: IMPACT OF REDUCED EMPLOYMENT INSURANCE WAITING PERIOD ON MATERNITY/PARENTAL SUPPLEMENTAL EMPLOYMENT BENEFIT PROVISIONS

A. BACKGROUND

- Effective January 2, 2017, the waiting period that must be served before receiving Employment Insurance (EI) benefits, including Maternity and Parental benefits, was reduced from two (2) weeks to one (1) week by the Federal Government. This change impacted the Supplemental Employment Benefit (SEB) provisions contained in many local collective agreements.
- The Parties met pursuant to the Legislative Change provisions of the provincial collective agreement (Article A.9), but were not able to agree on modifications to the relevant collective agreement provisions. The matter was subsequently referred to arbitration by BCPSEA on December 19, 2016.
- The parties reached an interim agreement on August 29, 2017. That interim agreement will be replaced by this settlement agreement effective December 1, 2020.
- Following mediation with Arbitrator John Hall in September 2020, the Parties have now reached agreement regarding how SEB provisions will be administered in light of the aforementioned change to the EI waiting period. The terms of this agreement are set out below.

B. TERMS OF SETTLEMENT

Application of SEB Plan Provisions

1. School districts will continue to administer SEB provisions in accordance with the language of the Collective Agreement, with one modification set out in paragraph 2 below. This modification provides a process designed to allow teachers to access the full extent of SEB payments (which were premised on a two week EI waiting period) notwithstanding the change to a one week EI waiting period. For greater certainty, nothing in this Agreement is intended

to alter the operation of the Collective Agreement SEB provisions including conditions and restrictions relating to eligibility and entitlement.

2. Where an employee serves a waiting period for maternity or parental EI benefits and is entitled under the SEB provisions to payments during the “first two weeks of leave”, the “two week waiting period” or equivalent language, the school district will:
 - a) pay the first week of that payment in the first week of the leave, and
 - b) issue an ROE, subject to direction from Service Canada, after the first week of the leave which reflects the payment in the first week of the leave

in order to facilitate the teacher applying for EI benefits in the second week of the leave, serving the EI waiting period in the second week of the leave and receiving EI benefit payments (and applicable top up payments) in weeks 3 onward of the leave. See examples attached as Appendix “A” to this agreement.

General Matters

3. BCPSEA’s referral of this issue to arbitration, dated December 19, 2016, will be held in abeyance. This Agreement will come into force on December 1, 2020 and will apply to leaves which commence on or after December 1, 2020.
4. If, due to the SEB provisions in a particular district, the procedure in paragraph 2 results in a payment to a teacher to which they are not entitled, the parties agree that the teacher will execute an agreement acknowledging that the overpayment constitutes a debt owing to the district and assigning wages to the district to repay the overpayment. The district will work with the teacher and the local union to determine an appropriate schedule of repayment.
5. This Settlement Agreement is without prejudice and precedent to any other issues between the provincial or local parties.
6. Arbitrator Hall retains jurisdiction to address any disputes regarding interpretation or implementation of this settlement agreement including, without limitation, jurisdiction to address any differences arising from the implementation of paragraph 4 above. He also has continued jurisdiction to address BCPSEA’s December 19, 2016 referral to arbitration if the settlement agreement becomes inoperable due to factors outside of the parties’ control.

Dated at Vancouver, British Columbia this 29^h day of September 2020

British Columbia Teachers’ Federation

British Columbia Public School Employers’ Association


Clint Johnston, BCTF 1st Vice President


Renzo Del Negro, CEO, BCPSEA

Appendix "A" – Examples

Example 1: Maternity Leave with 2 week payment and 15 week top up

The Collective Agreement provides that teachers are entitled to be paid 95% of their current salary for the first two weeks of the leave and, if eligible for EI benefits, the difference between EI benefits and 75% of their salary for a further 15 weeks.

If a teacher commences maternity leave on December 1st and is eligible for EI benefits, they will receive 95% of their current salary for the first two weeks of the leave. They will receive an ROE after the first week, will apply for EI and serve their one week waiting period in the second week of the leave and will receive 15 weeks of EI benefits with top up to 75% in weeks 3 to 17 of the leave.

	Week 1	Week 2	Week 3	Week 4	onwards
Employee	commence maternity leave	leave wk 2	leave wk 3	leave wk 4	→
		Complete EI application to Service Canada			
Employment Insurance - Maternity		serve EI one week waiting period	commence EI week 1	EI week 2	→
Collective Agreement Language	95% current salary	95% current salary	75% current salary less EI benefit	75% current salary less EI benefit	→
Payroll Process	<i>Code employee as paid leave (or equivalent) week 1.</i>	<i>Issue ROE to commence this week</i>			
	<i>Pay 95% provided in the waiting period</i>	<i>Pay 95% provided in the waiting period</i>	<i>Pay top up to 75%</i>	<i>Pay top up to 75%</i>	→

Example 2: Maternity leave with 2 week payment and no further top up

The Collective Agreement provides that teachers are entitled to be paid 85% of their current salary for the first two weeks of the maternity leave. There is no top up of EI maternity benefits.

If a teacher commences maternity leave on December 1st, they will receive 85% of their current salary for the first two weeks of the leave. They will receive an ROE after the first week which they can use to apply for EI benefits.

	Week 1	Week 2	Week 3	Week 4	onwards
Employee	commence maternity leave	leave wk 2	leave wk 3	leave wk 4	→
		Complete EI application to Service Canada			
Employment Insurance - Maternity		serve EI one week waiting period	commence EI week 1	EI week 2	→
Collective Agreement Language	85% current salary	85% current salary	-	-	→
Payroll Process	<i>Code employee as paid leave (or equivalent) week 1.</i>	<i>Issue ROE to commence this week</i>			
	<i>Pay 85% provided in the waiting period</i>	<i>Pay 85% provided in the waiting period</i>	-	-	→

Example 3: Parental Leave Where Waiting Period is Served

The Collective Agreement provides that teachers are entitled to be paid 95% of their current salary for the first two weeks of the parental leave when serving a waiting period for parental EI benefits, and the difference between EI parental benefits and 95% of their current salary for a maximum of 10 weeks thereafter.

	Week 1	Week 2	Week 3	Week 4	onwards
Employee	commence parental leave where waiting period required	leave wk 2	leave wk 3	leave wk 4	→
		Complete EI application to Service Canada			
Employment Insurance - Parental		serve EI one week waiting period	commence EI week 1	EI week 2	→
Collective Agreement Language	95% current salary	95% current salary	95% current salary less EI benefit	95% current salary less EI benefit	→
Payroll Process	<i>Code employee as paid leave (or equivalent) week 1.</i>	<i>Issue ROE to commence this week</i>			
	<i>Pay 95% provided in the waiting period</i>	<i>Pay 95% provided in the waiting period</i>	<i>Pay top up to 95%</i>	<i>Pay to up to 95%</i>	→