

IN THE MATTER OF A MEDIATION

BETWEEN:

CAPILANO COLLEGE

(the "Employer")

AND:

CANADIAN OFFICE AND PROFESSIONAL EMPLOYEES  
LOCAL UNION (378)

(the "Union")

**MEDIATOR'S RECOMMENDATIONS**

**SUBMITTED TO THE PARTIES**

**BY VINCENT L. READY,  
MEDIATOR**

**ON**

**AUGUST 18, 2005**

**BACKGROUND**

On July 5, 2005 I was appointed by the parties as Mediator to assist them in resolving their collective bargaining dispute.

I met with the parties on July 11 and August 16, 2005.

During the mediation process the parties made considerable progress by resolving a number of outstanding matters. However, the parties were unable to agree on some of the more contentious issues.

In the end, both parties requested that I make non-binding recommendations to assist them in resolving these matters.

In these recommendations I will not review all of the outstanding items between the parties. What I have done is provided what I think is the basis for a settlement between the parties. If the parties were to accept my recommendations then all other items would be considered resolved.

There are several things that have influenced my recommendations. First, there are compensation guidelines in place for public sector workers. Over 50 collective agreements have already been resolved in one way or another that comply with these guidelines. In my view these recommendations must be consistent with the guidelines.

Second, several other colleges and unions have already settled their collective agreements and they provide a good indicator of what these parties would have negotiated on their own. More specifically, there was a recent settlement between six colleges and the BC Government & Service Employees' Union (BCGEU) support workers, which have similar agreements and similar compensation as the Capilano College employees. Once again this settlement and other settlements have influenced my recommendations.

Third, the parties have presented me with their rationale for particular issues and provided background information where required. I have reviewed the positions of both parties and have taken those positions into account when making my recommendations.

Outlined below are my specific recommendations for resolution to reach a Collective Agreement.

**1. COMPENSATION AND TERM**

i. Term of the Agreement

April 1, 2002 – March 31, 2006

ii. Wages

April 1, 2002 – no change to current wage rates

April 1, 2003 – no change to current wage rates

April 1, 2004 – no change to current wage rates

April 1, 2005 – 1.5% wage increase

iii. Wage Increase-Offset

Effective April 1, 2005 employees will receive a 1% wage increase.

This increase is offset by the 1% Accord Training Fund which shall end.

iv. Signing Bonus

Regular employees employed on August 1, 2005 shall receive a signing bonus of 3% of regular 2004 earnings which is the year-to-date amount that appears on the employee's final pay stub for 2004 and excludes overtime payments, premiums, vacation pay, etc. This signing bonus exhausts the Training Accord Fund as of March 31, 2005. Temporary employees who are not working on August 1, 2005, but work within the next 45 days, are eligible for payout.

v. Effective 30 days following ratification (by both parties) the Supplemental Employment Benefit Plan shall be implemented as per the attached Appendix 1, and will apply to regular employees who take their leave after the ratification date.

**2. PREVIOUSLY AGREED ITEMS**

All items previously agreed between the parties shall be incorporated into the renewed Collective Agreement (attached as Appendix 2).

**3. BARGAINING UNIT DEFINED**

The Union proposed a restructuring clause which had as its purpose restructuring and defining the work of the bargaining unit.

I am of the view that the language proposed will be restrictive to the College. Having said that, I am of the opinion the Union did raise some legitimate examples where arguably certain College assignments are eroding the work of the bargaining unit. Therefore, I am recommending that these issues be raised directly with the Vice-President of Human Resources as soon as possible after the ratification of these recommendations so that they can be dealt with in a timely manner.

**4. ARTICLE 9.07 – CASUAL EMPLOYEES  
ARTICLE 9.08 – FILLING OF REGULARIZED POSITIONS  
ARTICLE 10.02 – 24 HOURS ADVANCE NOTICE**

Both parties provided me with extensive and well thought out arguments on each of these proposals.

These are fairly complex issues within the scheme of the parties' Collective Agreement. As is often the case both sides have legitimate points on each of these matters. Therefore, I believe the best way to resolve these issues are to refer them to the Joint Standing Committee for further review.

In the result, I recommend that the current provisions remain in their present form.

## **5. ARTICLE 12 – LAYOFF**

The College has proposed extensive changes to the layoff language contained in Article 12.

In short, it is the College's position that the current language is cumbersome and needs to be streamlined.

Having reviewed the language itself and having heard the concerns of the parties, I am of the view that this Article will require a broad and expansive discussion prior to making any substantive changes to it. Therefore, the parties should hold these discussions well in advance of their next round of negotiations through the Joint Standing Committee.

Further, I recommend that Article 12 remain in its present form.

**6. ARTICLE 25 – APPOINTMENTS**

The College has proposed a number of changes to this Article, the purpose of which is to streamline the appointment process and to redefine the criteria used for selection purposes.

Additionally, the College proposes an extension to the probation period.

The Union also made proposals to enhance the selection criteria for its members.

This provision is similar to Article 12 above in that it contains an elaborate code to govern the appointment and selection of employees. I believe this matter is best left to the parties to discuss away from the pressure of collective bargaining in order to give them an opportunity to identify each parties' concern and attempt to resolve these matters to their satisfaction.

Consequently, I recommend this Article be referred to the Joint Standing Committee and that the current provisions of Article 25 be renewed.

**7. ARTICLE 33 – WORKLOAD**

The Union has made extensive arguments with respect to workload issues and proposed that an independent person be appointed to investigate these issues and make recommendations for resolution.

Having reviewed the provisions of Article 33 I observe that the Article contemplates a Joint Workload Review Committee to deal with issues of workload.

I observe further that the parties have not appointed a Joint Committee. Therefore, I recommend that the parties give effect to the current provisions of Article 33 by establishing a Joint Workload Committee.

**8. DURATION OF PRESENT AGREEMENT**

I recommend Article 31.03 be amended to read as per the Union's proposal:

In the event that a new Collective Agreement is not entered into by the parties on or before the 31<sup>st</sup> day of March, 2006, this Agreement shall continue in force and effect until the parties ratify a new or renewed Collective Agreement.

**9. LETTERS OF UNDERSTANDING**

I recommend the following Letters of Understanding be renewed:

- i. Student Employment Programs

(pp. 140-142 of Collective Agreement)



- ii. Testing  
(pp. 143-157 of Collective Agreement)
  
- iii. Parking  
(p. 147 of Collective Agreement)
  
- iv. Implementation of Computerized Human Resources Information Systems Database  
(p. 149 of the Collective Agreement)
  
- v. Joint Task Force  
(p. 151 of Collective Agreement)
  
- vi. College Closure Policy  
(p. 152 of Collective Agreement)
  
- vii. Items referred to the Joint Standing Committee Meetings to be amended to include issues referred to the Joint Standing Committee in these recommendations  
(p. 157 of Collective Agreement)

All other Letters of Understanding are to be deleted.

**10. OTHER PROPOSALS**

Proposals not specifically referred to in these recommendations or contained in the agreed upon terms, are considered to be withdrawn by the parties making them.

**11. JURISDICTION**

I shall retain the necessary jurisdiction to resolve any difficulties or disputes arising out of the implementation of these recommendations.

All of which is respectfully submitted on this 18<sup>th</sup> day of August, 2005.

*Vincent L. Ready*

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Vincent L. Ready

## APPENDIX 1

### 21.11 Supplemental Employment Benefit for Maternity and Parental Leave

- a) Effective the date of ratification, when on maternity or parental leave, a regular employee will receive a supplemental payment added to Employment Insurance benefits as follows:
  - i) For up to fifty-two (52) weeks of combined maternity/parental leave, an employee who is the birth mother shall receive an amount equal to the difference between the Employment Insurance benefits and seventy-five percent (75%) of her salary calculated on her average base salary.
  - ii) For up to a maximum of thirty-seven (37) weeks of parental leave, the spouse, biological father, the common-law partner or adoptive parent shall receive an amount equal to the difference between the Employment Insurance benefits and seventy-five percent (75%) of the employee's salary calculated on her average base salary.
  - iii) The average base salary for the purpose of Clauses 21.11 (a)(i) and 21.11 (a)(ii) is the employee's average base salary for the twenty-six (26) weeks preceding the maternity or parental leave. If the employee has been on unpaid leave for part of the preceding twenty-six (26) weeks, then up to four (4) weeks of that unpaid leave will be subtracted from the twenty-six (26) weeks for the purpose of calculating the average base salary.
- b) An employee is not entitled to receive Supplemental Employment Benefits and disability benefits concurrently.
- c) To receive Supplemental Employment Benefits, the employee shall provide the Employer with proof of application for and receipt of Employment Insurance benefits. An employee disentitled or disqualified from receiving Employment Insurance maternity or parental benefits is not eligible for the Supplemental Employment Benefits.
- d) To be entitled to the above noted benefits, an employee must sign an agreement that they will return to work and remain in the College's employ for a period of at least six months or equivalent to the leave taken, whichever is longer, after their return to work.
- e) Should the employee fail to return to work and remain in the employ of the College for the return to work period, the employee shall reimburse the College for the benefits above on a pro-rata basis.

## APPENDIX 2

# CAPILANO COLLEGE & CANADIAN OFFICE AND PROFESSIONAL EMPLOYEES' UNION

## Agreed Items

### Article 2.05 Exclusions

#### Update list of excluded positions as follows:

Assistant Director of Buildings & Grounds (vacant)

~~Executive Assistant to College Board and President~~ \*\*Associate Registrars

~~Manager, Bookstore~~

\*\*Budget Officer (vacant)

\*\*Business System Architect

\*\*College Librarian (vacant)

\*\*Comptroller

\*\*Deans

\*\*Director of Buildings & Grounds

\*\*~~Director, Systems Development~~

\*\*Director, Continuing Education

\*\*Director, Development & ~~Executive Director~~, College Foundation

\*\*Director of Finance & Bursar (vacant)

\*\*~~China Operations Manager~~

\*\*~~Manager, Public Affairs~~

\*\*~~Campus Dean(s), Sunshine Coast and Squamish~~

\*\*~~Director of Contract Services and Capital Planning~~

~~Human Resources/Privacy Executive Assistant~~

\*\*~~Manager of Marketing and Communications~~

\*\*~~Manager, Institutional Research (vacant)~~

~~Executive Assistant, Vice President Academic Affairs~~

~~Executive Assistant, Finance and Administration~~

~~Conflict Resolution Advisor~~

Human Resources Advisors, Recruitment and Training, Classification, - and Wellness &

Disability Management, Occupational Health and Safety, HRIS (vacant)

Human Resources Assistant

\*\*Manager of Athletics & Recreation

Deleted: Assistant to the President

Deleted: ¶

Deleted: Bookstore Manager

Deleted: Director, Computer & Communication Services

Deleted: Director, International Projects

Deleted: Director of Public Relations

Deleted: Director, Regional Centre(s)

Deleted: Director of Supplies & Services

Deleted: Executive Assistant, Human Resources

Deleted: Executive Director of College Relations

Deleted: Executive Director of Planning & Institutional Research

Deleted: Executive Office Assistant

Deleted: Executive Office Secretary

Deleted: Harassment Policy Advisor

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~~\*\* - Director, Information Technology Services~~

Deleted: Manager of Computer Services

~~\*\*Manager(s), Human Resources (Faculty and Staff)~~

Deleted:

~~\*\*Manager, International Student Centre~~

~~\*\*Manager, Project Accounting (vacant)~~

~~\*\*President~~

~~\*\*Registrar~~

~~\*\* - Vice President, Academic Affairs and Vice President Student and Institutional Support~~

Deleted: Vice Presidents, Education

~~\*\*Vice President, Finance & Administration~~

~~\*\*Vice President, Human Resources~~

~~\*\*Chief Information Officer (vacant)~~

~~\*\*General Manager, Performing Arts Theatre~~

~~\*\*Manager, BC Centre for Tourism, Learning and Innovation~~

~~\*\*Manager, Child Care Centre~~

~~\*\*Manager, Enterprise Resource Planning Systems (vacant)~~

Amend clause:

#### 4.06 RIGHT TO REFUSE TO CROSS PICKET LINES

##### (a) Dispute

Failure to cross a legally constituted picket line which arises out of a labour dispute under the Labour Relations Code of British Columbia shall not be considered a violation of this Agreement nor grounds for disciplinary action.

Delete clause:

Deleted: **6.06 DISPUTE OUTSIDE THE AGREEMENT ¶**

¶  
When a dispute arises from an item not covered by this Agreement, the dispute shall be forwarded to the Vice President, Human Resources and the Union for discussion. If the matter is resolved to mutual satisfaction, it will be reduced to writing and added as an addendum to this Agreement. ¶

## APPENDIX 2

Amend clause:

#### 7.03 COMPLAINT STAGE - STEP 1

An aggrieved employee or her Union Representative may discuss her complaint with her local supervisor. If the dispute is not resolved orally, the Union may formalize the grievance through submission to Step 2.

When a complaint is being discussed at Step 1, the thirty (30) day time limit in Step 2 with respect to the initiation of the grievance will be frozen.

**Update list:**

**\*8.01 ARBITRATORS**

All grievances submitted to arbitration shall be adjudicated by a single arbitrator selected on a rotational basis, depending on availability, from the following list:

- ~~John McConchie~~
- Don Munroe
- John Hall
- Joan Gordon
- Judi Korbin

Deleted: Steve Kelleher

**Amend clause:**

**8.06**

**(a) Arbitrator**

An Arbitrator shall be selected from amongst those Arbitrators named in this Agreement to hear the matter in dispute in accordance with the provisions of this Article and must be able to hear the matter within sixty (60) calendar days. If the Arbitrator is unable to meet within the prescribed time the parties will select the next available Arbitrator.

**APPENDIX 2**

**Amend clause:**

**25.03 Appointment Procedures**

**(f) Rights of Unsuccessful Candidates**

On request, the College shall give an unsuccessful candidate for any job the reasons in writing why that employee's candidacy was not successful and the Union shall have the right to grieve the matter in accordance with clause 25.05 of this Agreement.

**Amend clause:**

**25.05 RIGHT TO GRIEVE**

Within ~~ten (10)~~ working days of being notified by the Human Resources Department that she was an unsuccessful candidate for a posted job vacancy, under the procedure of 25.02, unless the job vacancy was filled by an employee pursuant to Articles 12 and 24, an employee may grieve the College's decision at Step 3 of the grievance procedure by forwarding such a grievance to the Human Resources Department.

Deleted: five (5)

**\*27.07 EMPLOYEE'S VEHICLE****(a) Vehicle**

It shall not be a condition of employment for an employee to supply a vehicle. An employee may refuse to use her private vehicle on College business.

**(b) Driver's License**

It shall not be a condition of employment for an employee to hold a valid B.C. Driver's license unless the job specifically requires that she drives a College vehicle.

Notwithstanding the above, the College and the Union agree that the following positions may include a requirement for a valid B.C. Driver's license:

- (i) Continuing Education Assistant
- (ii) Education Planning/Advising Officer
- (iii) Supervisor, Advising Center
- (iv) Student Recruiter
- (v) Employment Development Officer

Other positions may be added to this list only by mutual agreement of the Union and College.

**APPENDIX 2**

**Amend clause:**

## **29.08 EMPLOYEE FILE**

### **(a) Inspection**

An employee may, at a mutually convenient time, inspect the contents of her Personnel File. Any document found therein may be copied. If the contents of any document on file are disputed, the eventual resolution, be it through the grievance procedure or otherwise, shall be entered in her file.

### **(b) Incidental Information**

The College and the Union agree that in the interest of good communication, employees shall receive copies of incidental written complaints and positive reports on their performance which, although they do not constitute Personnel file documentation, have been brought to the attention of an Administrative Head. Employees will be given the opportunity to reply to incidental complaints.

### **(c) Union Access to Employee Personnel Files**

A representative of the Union shall have the right to read and review an employee's personnel file on written authorization of the employee and upon reasonable notice and by written request to the Human Resources Department. On request, the Union representative shall be provided with copies of all pertinent documents.

### *Housekeeping Changes:*

## **20.06 LEAVE OF ABSENCE WITHOUT PAY**

### **(a) Requesting**

Employees may request leave of absence without pay. Such request for leave shall be in writing to the Manager of Human Resources, who shall review the request and make every reasonable effort to obtain College approval. All approved leaves will be subject to the provisions outlined in Article 28.09 (b).

## **ARTICLE 21 - PARENTAL LEAVE**

### **21.01 APPLICATION**

All provisions of this Article apply equally to male and female employees.

## **APPENDIX 2**



**\*21.02 MATERNITY AND/OR ADOPTION LEAVE**

**(a) Prior to the Date of Birth**

(i) An employee will be granted unpaid leave of absence for maternity or adoption reasons relating to the birth or adoption of her child. Any absence granted under this policy will not exceed fifty-~~two~~ (52) continuous weeks for maternity leave and thirty-seven (37) continuous weeks for adoption leave, except as provided under Article 21.02(c). Thirty (30) days prior to commencement of the leave of absence, the employee will notify her Administrative Head of the number of weeks of leave she will be taking.

Deleted: seven

Deleted: ¶

**27.06 Mileage Allowance**

Authorized employees using their personal vehicle for College business, at College request, will be paid at the prevailing Board rate in accordance with Policy No. 310, but not less than ~~₹~~ ~~\$~~.40 per kilometer.

Deleted: \$.34

**Appendix A**

Replace Authorization form with revised COPE authorization form.