

THE POST

PROTECTIVE SERVICES

Information useful to Local Negotiators and District Officers

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ISSUES IN UNIVERSITY FUNDING

University funding is currently under a major review by the Ministry of Advanced Education and Skills Development (MAESD). They hope to move away from reactionary funding to a model which they purport is more stable and predictable, but also includes a portion of funding at risk that is dependent on student performance. There are several aspects of funding in the university sector that complicate knowing how much money is available when bargaining with a university employer.

There are multiple pieces of legislation that impact university funding including the *Ministry of Training, Colleges and Universities Act*, the *University Foundations Act* as well as individual universities each having their own Act. Individual university acts can be found on their respective websites. There is no formula prescribed to fund universities or colleges in current legislation. There are provisions for grants and student loans, as well as reporting requirements on a foundation of a university. These acts provide a base of information for bargainers on funding.

Another document that university sector bargainers should become familiar with is the *Ontario Operating Funds Distribution Manual*. This was first produced in the 60s, but is updated by the MAESD and in continued use today. The manual covers funding formulae for the various types of grants and also outlines reporting requirements and restrictions on funding such as which institutions and programs are eligible.

There are many sources of funding in the university sector making it difficult to determine total amounts of money that an employer receives. Funds come from; provincial grants; research grants, both federal and provincial; tuition and fees; ancillary funds such as parking, bookstore, press and food services; and private funds. The private funds are the largest source of uncertainty as there is little to no requirement for universities to disclose these funds which can come from gifts, endowments, or corporate donations and sponsorships. Private funds can be restricted to specific expenditures by the person or group making the donation, meaning that even if the amounts are known they may not be available for bargaining.

There are a number of documents that bargainers should be reviewing to look for available funds. The individual university's annual budget and audited financial statements are public documents. Other

helpful publications are available from Common Universities Data Ontario (CUDO) and Consortium des universités de la francophone ontarienne (CUFO).

These organizations publish information on enrolment, fees, class size by year, research awards granted, graduation rates and other statistics. This type of information will become even more valuable as changes are made to funding to incorporate a performance factor into the funding provided. Bargainers can also look to costings of health and dental benefit plans along with pension valuation documents if their employer runs a defined benefit plan.

As mentioned above there are on-going discussions on the funding review and reform which was started in 2016. The discussions involve changes to the enrolment corridor model of funding. A cleanup of the model is also contemplated to create a less complex funding model for basic operating grants. These grants currently employ a formula based on a basic operating income, which varies by institution, and is multiplied by a weighted enrolment factor dependent on the type of program and year of study.

There will be essentially three bins of money to be explored during bargaining under the funding review and reform.

- 1** Enrolment Grant Bin—Supplies funding based on the number of students and type of programs. Employs a corridor approach to stabilize funding.
- 2** Student Success/Differentiation Bin—Funding based on priorities and student outcomes. This funding will be at-risk as it is performance driven and will be eventually connected to SMAs (Strategic Mandate Agreements) by 2023.
- 3** Special Purpose Grant Bin—A new distribution methodology will be used for the same grants as previous. These grants address accommodations, special needs, and specific programs or mandates of either MAESD or the university.

Any questions regarding university sector funding can be directed to Joe Hirschegger or Dave Barrowclough at Provincial Office at 1-800-267-7867.

PERSONAL LEAVES FOR CASUAL EMPLOYEES UNDER THE EMPLOYMENT STANDARDS ACT (AS MODIFIED BY BILL 148)

In general, casual employees have access to the same leaves under the *Employment Standards Act* (ESA) as permanent employees. However, it is often difficult to determine exactly how casual employees access those leaves, or how they mesh with other leaves under the collective agreement.

Casual employees in term positions, such as long-term occasional teachers, are generally under the same or similar terms as permanent employees, and have access to sick leave, pregnancy leave, and other leaves through processes that are already in place. There is little question as to their eligibility for such leaves, or the way in which those leaves would be applied to them.

However, the situation is much less clear for casual employees who work on a daily or short term basis, because when they are on leave, they are not always leaving an assignment, but instead are more often considered to be unavailable for assignment.

The following information applies specifically to short-term casual (STC) employees:

The following ESA leaves are available to STC workers:

- Domestic and Sexual Violence Leave
- Pregnancy and Parental Leave
- Critical Illness Leave
- Family Medical Leave
- Child Death Leave
- Crime-related Child Disappearance Leave
- Personal Emergency Leave (PEL)

With the exception of PEL, the above leaves will generally be without pay, and will involve the person simply being unavailable for assignment. Since they are statutory leaves, these leaves cannot cause the employees to lose rights under the collective agreement. In other words, if your collective agreement has a requirement that a STC must work a certain number of days over a specific period in order to maintain their STC status, the time on leave cannot be considered as time not worked, and cannot cause a person to be removed from the casual list. The leave also cannot cause them to lose their Active Member status with OSSTF/FEESO.

PEL and STCs

The PEL provisions apply to those STC members who do not already have access to paid sick leave. This leave is available for 1) personal illness, injury or medical emergency, or 2) the death, illness or medical emergency of a prescribed list of family members, or 3) an urgent matter concerning one of the prescribed family members.

STC workers are entitled to PEL if they have an assignment, or are offered an assignment, and are not able to complete or accept the assignment for any of the three reasons covered by PEL. In general, if a casual employee is unable to work in a situation where they would have had work, and their inability to work is due to one of the circumstances covered under PEL, they are entitled to use a PEL day. The employer may require the employee to justify the leave by providing reasonable evidence, but cannot require the employee to provide a medical note.

Examples:

A STC accepts an automated call-out at 7:30 p.m. for a job the next day, and wakes up feeling ill. They should have access to a PEL sick day for the assignment, since they cannot complete the assignment due to illness.



A STC receives an automated call-out at 7:30 a.m. for a job for that same day, but is feeling ill. They should have access to a PEL sick day for the assignment they are unable to take, since they cannot take the assignment due to illness.



A STC **would not** be eligible for a PEL sick day if they are ill on a day where they do not have or are not offered an assignment.



The above three examples would also apply to the other circumstances that make up PEL. Employers will need to develop processes to allow STCs to access PEL in such situations.

There are 10 days of PEL available every calendar year. Where the person has been an employee for at least one week at the time of the leave, the first two days of PEL will be paid leave. Where a STC is required to work a certain number of days to maintain their STC status, a PEL day should count as a day worked.

Q AND A CLARIFICATION

The Q&A on Return to Work that was in the last edition of *The Post* has been agreed upon by all central parties. School boards have access to it from the Ontario Public School Boards' Association and the Council of Trustees' Associations through their HR portal.

MINISTRY OF LABOUR RELEASES WORKPLACE VIOLENCE IN SCHOOL BOARDS—A GUIDE TO THE LAW

The guide contains a number of key pieces of information relating to employer duties contained within *Ontario Health and Safety Act* (OHSa) such as:

- developing and maintaining a workplace violence policy and program,
- the requirement to conduct workplace violence risk assessments,
- requirements to reassess the risk of workplace violence and
- how to develop measures and procedures to control the risks of workplace violence.

The guide also provides best practices for student safety planning, behaviour support planning and individual education plans. The reporting of incidents is a significant problem we've heard about through the OSSTF/FEESO Workplace Violence Task Force and also through the Provincial Executive site visits conducted this school year. In order to clarify reporting under OHSa, the *Education Act* and the *Workplace Safety and Insurance Act*,

Appendix H: Road Map was developed. The Road Map clearly outlines the process for reporting workplace violence under the key pieces of legislation mentioned above and it is expected that employers will be providing training to all employees in the fall of 2018.

Another piece of training currently being developed by the Special Education division of the Ministry of Education is training related to Appendices F and G. These appendices are the Notification of Potential Risk of Physical Injury forms, also known as Safety Plans (Appendix F for Truncated Student Safety Plan and Appendix G for General Safety Plan). These documents fulfill the employer's duty to provide information to workers regarding the risks of workplace violence as per OHSa s.32.0.5 (3). The documents should be kept in a secure location but, be made available to any worker who may come in contact with an individual with a history of violent behavior.

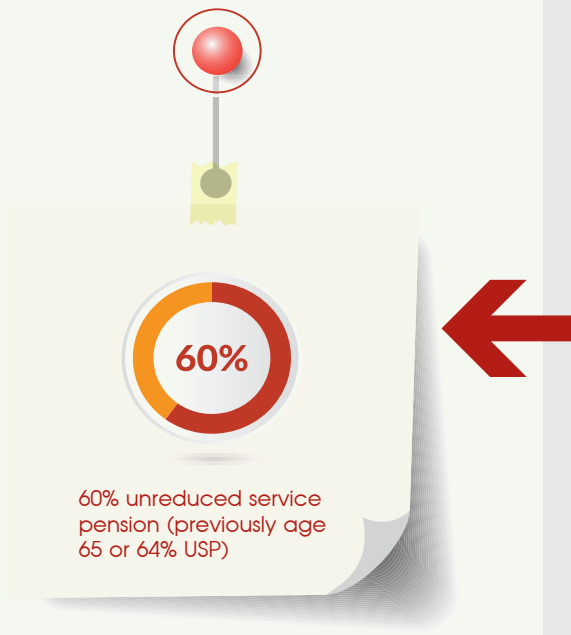
Finally, while not specifically part of the guide, the way members report workplace violence continues to be a significant challenge as mentioned earlier. Through discussion at the PHSWG, a practical online reporting tool that was currently in use in the sector was identified as a best practice. The Ministry of Education recently provided school boards the opportunity to access funds to purchase the program/software to implement the tool, hopefully, across the province. Local leaders should be asking their employer if they have taken steps to implement the online reporting tool.

The guide is available in PDF form on our www.osstf.on.ca website for use at the local level. We strongly encourage local leaders to ask your employers how they plan to implement the best practices laid out in the guide and suggest sharing it with as many members as possible. Our OSSTF/FEESO Workplace Violence Task Force will be featured prominently again at the Leadership 2018 plenary session on Saturday morning where we will provide some training around the guide for local leaders.



**END
THE SILENCE
STOP
THE VIOLENCE**

MARCH 1, 2018



CHANGES TO THE PROVINCIAL LTD PLAN AND TERMINATION OF PREMIUMS

As reported in D/BU #093/2017–2018, changes were recently made to the Provincial LTD Plan for teachers. One of these changes affected the termination of eligibility for benefits.

As of March 1, 2018, benefits now terminate at the earlier of (i) the end of the month of attaining age 65; or (ii) the date the member becomes eligible for a **60%** unreduced service pension (USP). *Previously age 65 or 64% USP.*

The change in termination USP has resulted in a number of active TBU members recently reaching the point where they are no longer eligible for coverage. Such members should apply to cease premium deductions. Bargaining Unit representatives should refer to the memorandum from OTIP sent earlier this year, which contains information on this process, as well as the required form.

THE PROTECTIVE SERVICES POST
QUESTIONS & ANSWERS

FREQUENTLY ASKED QUESTIONS ABOUT EMPLOYMENT INSURANCE

Q1 I am applying online for employment insurance. Why didn't I get a reference code? Where do I get one?

A1 School board workers are not issued a 16-digit reference code. Please complete your application without using a reference code.

Q2 Can a teacher with a full-time contract ever get employment insurance?

A2 Teachers cannot be paid regular benefits during non-teaching periods unless their contract ends and they receive a layoff notice. Maternity, parental, compassionate care, Family Caregiver Benefit for children or the Family Caregiver Benefit for adults may be paid provided the member has the necessary 600 hours in the last 52 weeks.

Q3 How does employment insurance define a non-teaching period?

A3 Summer break, Christmas break, Spring break.

Q4 My long-term occasional contract will continue in September. Will I be eligible for employment insurance?

A4 No. If a contract for the next teaching period is signed or agreed with the same school board prior to the termination of the school year, you cannot be paid regular benefits for the non-teaching period (Regulation 33).

If during the non-teaching period (Summer) a contract for the next teaching period (September) is signed, you cannot receive regular benefits as of the date of the signature of the new contract.

Q5 Can I go on vacation and still collect regular Employment Insurance benefits?

A5 No, you must be ready, willing and able to work. You should declare to Service Canada that you will be unavailable. You won't receive benefits for that period of time but you will not be penalized.