

it's all about Support

Explanation of Memorandum of Settlement, Sept. 19, 2011

Management's Offer of Settlement of Aug. 31 was significantly weaker than the tentative agreement. There were a number of reasons the team rejected management's offer of Aug. 31. Your bargaining team has provided explanations below on each of the items that were in both Management's and our Offers of Settlement, Aug 31st. I hope it provides some clarity on the process and our decision.

1. Flexible Hours of Work (Art 6.1.4)

Management's proposal of Aug. 31 with regard to this Article was a major take-away. The language in this article provides that there must be agreement between the College, the Local, **AND** the affected employee before flexible hours of work can be implemented.

Further, this article provides that either the College or the employee could terminate the agreement at anytime with two (2) weeks notice.

Management wanted to remove those rights. That would have meant working hours and days of work would have been completely and solely at the discretion of the College. Neither the Local nor the employee would have any say or recourse.

The tentative agreement has increased the notice period to eight weeks in acknowledgement of each party's needs to make accommodations for changes in work schedules. **HOWEVER**, the tentative agreement retains the requirement for there to be agreement to the schedule by all parties concerned. That means members retain their right to say no, if they wish. If they do agree, and their personal circumstances change, with eight weeks notice they can have the arrangement cancelled.

2. Compressed Work Week (NEW)

The version of this proposal in Management's document of Aug 31 was totally unacceptable. In essence it would have allowed the College at anytime to implement a compressed work week schedule for any employee. The only restriction was that they would have been required to provide four weeks notice to the Union so the Local could voice any concerns and propose alternatives.

This was one of the top reasons for going on strike. Management would only guarantee that the compressed work week would be comprised of consecutive days and consecutive work hours, i.e. no split shifts.

We did not feel this was fair to the members. This represents a major change to a person's life and can affect many facets of their personal/family life. We could not agree to the proposal as presented. The intent was also, in our opinion, to reduce if not eliminate the need for the Colleges to pay overtime. If you are working 10 hrs/day instead of eight hrs/day then the amount of overtime required would be significantly reduced. For the 5th day a part-timer could be hired. However we did realize that some members would welcome this opportunity.

When we returned to the table Sept. 17-18 it was apparent this was a deal breaker for management. We were not going to agree to this proposal but neither did we want to keep members out on strike if it was possible to get a deal. The Collective Agreement already contains an article that we felt provided the College with the ability to implement a compressed work week **AND** protected our members. That is article 6.1.4 above. We proposed that this new arrangement be subject to the same provisions as 6.1.4, i.e. the College, Local and member had to agree on it **AND** either party could terminate the arrangement with eight weeks notice. This wouldn't eliminate the part-time hours but it would protect members and it would be voluntarily.

Initially the College would not budge on this issue. However, when it came to our final exchange, when we proposed 1.5%, 1.75%, and 2% they agreed to the language.

3. Appendix G – Summer students

The Colleges initially wanted the ability to hire Appendix G summer students all year long. The argument was as students are on a break at different semesters depending on their program that “summer break” was really “semester break.”

This would have meant the College would have had access all year long to a pool of low-paid, skilled, full-time support staff. The minimum rate of pay at the time for Appendix G students was **student** minimum wage \$9.60/hour.

Eventually we got them to agree to Appendix G students starting mid-April, as the Winter semester/Summer break typically started them. And they decided to set the minimum rate of pay to **general** minimum wage which is currently \$10.25/hour. We continued to ask that they be paid at least the starting rate of payband A which is \$17.21. Many of these students work alongside permanent full-time support staff performing the same work but their minimum rate was \$7/hr lower than the bottom rate for permanent full-time staff.

However they continued to want them to work into September. Our argument was that as students their classes would commence the Tuesday after Labour Day so we proposed students could work under Appendix G until the Friday before Labour Day.

The tentative agreement has limited the last day for Appendix G contracts to the Friday before Labour Day. This was a compromise between enhancing work availability for students and ensuring Colleges would not be able to exploit the students nor erode permanent full-time jobs. Next round hopefully we will be able make some improvements to their wage rates.

4. Probationary Period (Art 14.1)

Management wanted to increase the probationary period from six months to 12 months. We had several concerns regarding this change:

- i. Our probationary period had been the same since 1969. Management had never indicated it was a problem prior to this round of bargaining.
- ii. Employees terminated while on probation have no legal recourse, except in the case of harassment or discrimination, to challenge dismissal.
- iii. This would open the door to creating a pool of “sessional” support staff that would bounce from College to College. Currently in the academic world a teacher can work full-time for up to 12 months in any 24 month period at a given college without qualifying as permanent full-time. As a result many College teachers have been on 12 month contracts for significant lengths of time, some as long as 10 years, moving between two or more Colleges every year, earning less than full-time faculty and not earning any benefits or pension.

We believed the language management was requesting would create a permanent pool of “sessional” support workers who would never be paid what their permanent colleagues were nor be eligible for benefits or pensions. This was a potential erosion of full-time support staff positions.

The tentative agreement does not include this provision. Instead, we agreed that for the purposes of probation only, part-timers hired as full-time support staff would no longer be able to count their part-time service towards probation. However, once they pass probation credit for their part-time service would still be granted according to Article 14.3 for the purpose of service and seniority which effects vacation.

5. Complaints/Grievances

Management initially suggested streamlining the Complaints/Grievance process by eliminating Step 2. Step 2 is the point in the process where the manager’s manager hears the grievance argument from the Union and either grants the grievance or denies it.

Under management’s proposal Step 1 would be submitting the grievance to the grievor’s immediate supervisor. The only problem with that is the grievance is against the immediate manager. We argued that it seemed counter-intuitive to expect the manager who is the subject of the grievance to assess the grievance objectively and be able to decide to grant the grievance. Management eventually agreed to eliminate Step 1 instead of Step 2. The significance of this is to reduce the length of time and cost of the grievance process. We hope this will improve relations between the Colleges and their local union.

We also proposed a change to the arbitration process. The current arbitration process tends to result in a significant delay between the filing of Notice of Arbitration and the actual occurrence of the hearing. It is not unheard of right now for there to be a delay of up to two years. We felt there could be significant gains for both parties if the process was streamlined. Consequently we proposed a mediation/arbitration process. What this means is that once a grievance is referred for arbitration there would first be a mediation meeting with a 3rd party neutral mediator. As mediation is non-legalistic process, scheduling it would occur much sooner and the actual length of the mediation meeting would be significantly shorter than an arbitration.

Our current process requires a board of 3 people: an arbitrator, a union nominee, and a management nominee. The mediation/arbitration process would involve only the mediator/arbitrator thus eliminating the cost of two people. Also arbitration cases often require multiple hearings which cannot be determined until the first meeting is held. It also requires finding dates where all 3 members of the arbitration board are available. As a result not only is there a long delay between filing and the actual hearing, but if there are multiple dates required, the arbitration itself can take up to a year, in some cases longer. Mediation is one meeting requiring only the mediator. If an agreement cannot be reached then the grievance would be heard by a sole arbitrator, who is also the mediator. Scheduling tends to be much simpler and streamlined.

This revised process is in the tentative agreement. The only concession we agreed to in this Article was to limit the powers of an Arbitrator with regard to complying with required timelines in a grievance.

6. An increase of 50% to 100% the Union would reimburse the College for any time off to attend provincial committees.

This is a significant hike in costs to the Union. Yes, the members attending these meetings are there on behalf of the union but at the same time they are working for the College engaged in trying to improve labour relations, administer employee benefits, schedule grievances, and address Classification issues.

The cost of the management representatives are covered fully by the Colleges as employees. It is the unions' view that as we work in a unionized environment any time we are engaged in consultation or discussion with management we are also working as employees – just representative employees.

The tentative agreement does not include this.

7. An increase 25% to 50% the Local would reimburse the College for any Union time off.

This level of increase in reimbursement, in some cases, would have significantly affected a Local's ability to work on behalf of its members and represent them. This may not necessarily have been the case for GBC, but it was another example of the Colleges attempting to make it more and more difficult for the union to work and end up with the members suffering due to lack of representation.

The tentative agreement does not include this.

8. Special Allowance (Article 7.7)

Management wanted to change the payout of the Special Allowance to the pay immediately following Sept. 1 of each year rather than pay it on or before Sept. 1. We opposed this change initially because we perceived it as another attempt by the Colleges to use intimidation and fear to persuade members not to vote for a strike.

The tentative agreement includes the change. It was the team's decision that this was not a significant enough concession to warrant risking keeping members on strike.

9. Initiatives/Opportunities

Originally we had hoped to have this removed entirely. Management's proposal was to include it in the Collective Agreement as an Appendix. As a Letter of Understanding for it to remain in the Collective Agreement the parties must agree to the renewal otherwise it is removed. As an Appendix it is in the body of the Collective Agreement. It stays whether or not the parties even discuss it.

This continues to be a Letter of Understanding that will require both parties to agree on renewing for it to remain in the Collective Agreement.

10. 3 yr contract – 1.5%, 1.5%, 1.75%

We believed that the Colleges were able to give us more. At the time we were looking for a two-year contract, 3% each year. Public sector increases over the last year have averaged 1.2-1.5% per each year of their contracts. The educational sector has averaged 2%. We believed the Colleges should be able to provide 2% or at least closer to it.

This tentative agreement is a three-year agreement. In talking with a number of members it became apparent many would prefer a three-year contract for the financial stability it provides. On Sept. 17-18 we exchanged three counter-proposals with Management. By late Sept. 18 they had only moved on the 3rd year increase which had been changed to 2%. It was very clear they would not move to 2% in the 1st or 2nd year. That fact coupled with other changes we were able to get led us to propose 1.5%, 1.75%, and 2%.

In addition to the above items we have secured the following improvements:

1. Out of Country/Travel Insurance

Currently the Out of Country/Travel Insurance we have provides only 85% coverage of emergency medical services. This plan will cover 100% coverage and includes full Travel Assistance. Reimbursement is limited to \$2,000,000 per person lifetime. You will not need to pay upfront. This insurance will cover you anywhere outside of Ontario and Canada.

2. Private Duty Nursing

This will provide up to \$25,000 of private duty nursing per year per covered person.

3. Critical Illness Insurance

This insurance provides certain coverage, up to \$50,000, in the event of critical illness. Currently we do not have this. However, employees who opt for this insurance will be responsible for the premiums. This was one of the benefits Faculty acquired in their last round.

4. Less than 12 month positions – group insurance

Currently support staff that worked full-time but for less than 12 months a year did not retain their extended health care benefits, dental, vision, or hearing during their layoff period. The Colleges have agreed to research if it is possible to have the benefits continue without affecting the employee's EI benefits. If so, then the Colleges will provide these employees with the option of continuing benefit coverage, at their own cost, during the lay-off period.

5. Automobile Insurance coverage

The Colleges will reimburse members up to \$150 (previously \$120) for the difference between personal auto insurance and commercial insurance for employees using their car for work.

6. Contracting Out

Contracting Out used to be included a Letter of Understanding in the Collective Agreement which required both parties agreement to renew each bargaining round. This meant the Colleges were able to use this in bargaining as a threat. Without renewal of the letter there would have been no protection for members against contracting out.

Contracting Out language is now included as an Appendix, which does not require renewal each time. It is language that we can attempt to improve in the future.

We were also able to get minor improvement on:

- Having smoking cessation and weight loss programs included extended health care considered through the Provincial Employee Employer Relations Committee. Our original proposal was to include it Section 11 of the Benefits Booklet.
 - Having coverage for dependent and spouse tuition costs considered through the provincial Employee Employer Relations Committee. Our original proposal was to have it included in the body of the Collective Agreement.
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The additional items that we still had on the table Aug 31 were:

1. Voluntarily recognizing the part-timers and including them in our Collective Agreement.

The Colleges are of the opinion that they cannot legally do this according to the Colleges' Collective Bargaining Act. We do not hold the same opinion. However, as an option, we proposed the Colleges remove their challenge of whether or not the Union had at least 35% of eligible voters signed up on the date of the part-time vote two years ago. They refused. We felt in the interests of securing a decent agreement that we could drop this demand and try to tackle it from other avenues.

2. College to pay retiree benefits

This demand was aimed at attempting to have retiree benefit premiums paid for by the College. This proposal was the most costly of all of our proposals and quite honestly, the removal of the proposal is to a great extent the reason why the colleges accepted our invitation to return to the table.

3. Part-time employees

This demand regarded the lists of part-timers employed by the College for 24hrs per week or less. We requested the list be provided monthly instead of every four months; that it be provided electronically, and that it include the actual daily work schedule of each individual. This would assist us in identifying where the College is NOT giving preference to full-time positions over part-time.

The Colleges counter-proposed to reduce the frequency of the lists to every 6 months and lengthen the amount of time they would have to produce the lists upon request by the Union.

When we returned to the table we dropped this proposal in favour of other proposals we concluded were more achievable and would have greater impact.

4. Granting of leaves of absence to employees to participate in union activities.

This demand was aimed at requiring the Colleges to grant the time-off and was an attempt to ensure we did not run into the same problem in future bargaining years that we had this round in securing time-off for mobilizers. Although we were unable to get agreement on this proposal, the Colleges did put forth a proposal that guarantees us four provincial mobilizers on full-time release, paid by OPSEU, starting 90 days before the end of the contract. This will go a long way in helping us communicate with members, organize bargaining events, rallies, and performing other related activities. We initially countered their proposal with a request for 7 mobilizers – 1 for each region. However, when it came down to the last exchange we agreed to this. This is a significant move for the Colleges. With it in the Collective Agreement we can attempt in future rounds to secure more mobilizers.

5. Union Time-Off

We attempted to provide the Locals with the right to buy up to 40 hours of time-off locally, paid for by the Local. Currently, depending on the size of the membership at the College, the local has the right to 12, 15, or 18 hours per week unless otherwise agreed to by the parties. The Colleges from the very beginning of bargaining were adamantly opposed to this demand. We felt it best to drop it in this last bargaining session in favour of other proposals we concluded were more achievable and would have greater impact.

6. Colleges shall not utilize the services of a third party provider for Short Term Disability eligibility or administration

Prior to the start of bargaining it became apparent there was an increase in the number of Colleges starting to use a 3rd party provider to review short-term disability claims and make recommendations to the Colleges on whether they considered the claim to be legitimate. Although the member's consent was required so the 3rd party could access the member's medical records, we view this as

contravening legislation regarding access to personal medical information and an attempt to pressure/intimidate members into returning to work in order for the Colleges to reduce their sick time costs.

In many respects the Colleges have themselves to blame for any increase in the use of sick time. Over the last decade, despite sharp increases in enrollment and workloads, hiring of full-time staff has not kept pace and has resulted in subjecting staff to hire levels of stress, workload, etc.

However, there are other avenues we can use to attack this practice although it must be done on an individual level. Therefore we decided to drop this demand to focus on others.

7. Unlimited bumping during layoffs & a defined familiarization period for members reassigned

This was proposed to avoid a situation that we felt might be a potential outcome of the language

- a. that a member who was the 4th person displaced in a layoff scenario could be laid-off even if there were other members with less seniority, and
- b. that a member who had been reassigned be provided sufficient opportunity to learn and familiarize themselves with the new requirements of the new position.

8. Reinstatement of STD benefits

Having full STD benefits reinstated upon the first day of returning to work from illness or injury if you were absent Sept 1^s

9. Health and Safety Training

All training for health and safety shall be conducted by the Workers' Health and Safety Centre.

We are waiting to hear back from the Ministry of Labour regarding a meeting date with them to discuss arrangements for the ratification vote. They are not available until Sept. 23 at the earliest so it might be early next week before we can provide that information.