

Letter of Agreement

Between:

School District #36 (Surrey) - (the Employer)

And

Surrey Teachers' Association - (the Union)

**RE: Grievance 20-21-024 – Cultural Leave for Aboriginal Employees**

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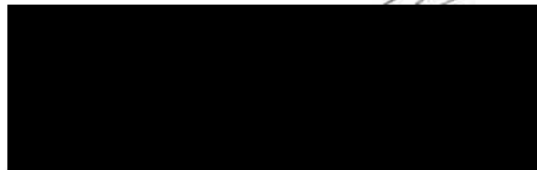
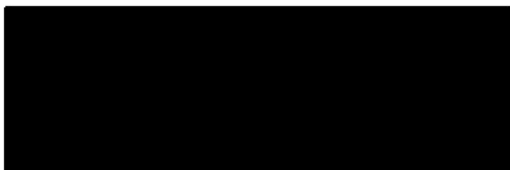
WHEREAS:

- a) Article G.11 Aboriginal Cultural Leave was introduced into the Collective Agreement for the July 1, 2019 renewal AND;
- b) The Employer responded to one or more requests for such leave during the 20/21 school year AND;
- c) The Union filed grievance 20-21-024 as a matter of general application on June 4, 2021 AND;
- d) The Union alleged, in part, that the Employer's criteria in considering requests under G.11 was inappropriately narrow AND;
- e) The Parties subsequently have become aware of Mediator Schaub's clarification letter on the application of Article G.11 dated May 17, 2021.

NOW THEREFORE the parties agree as follows:

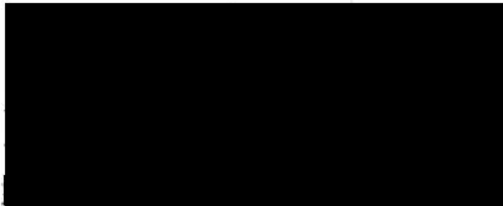
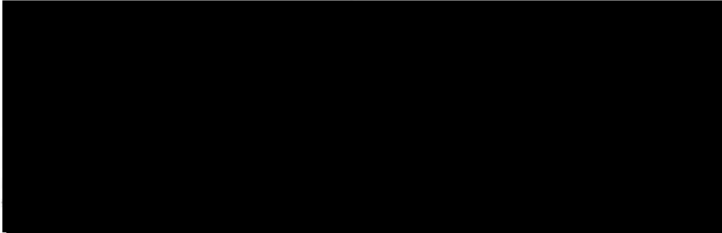
- 1) The Clarification dated May 17, 2021 and appended to this agreement will be adopted by the parties in the application of Article G.11;
- 2) Grievance 20-21-024 is resolved.

Agreed to this 25 day of June, 2021.



BRITISH COLUMBIA  
LABOUR RELATIONS BOARD  
MEDIATION DIVISION

May 17, 2021



**INTERESTED PARTIES:**

Re: Clarification on the Application of Cultural Leave for Aboriginal Employees as provided for in the 2019 – 2022 Provincial Collective Agreement

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BCTF has requested clarification on the application of Cultural Leave language agreed to during the last round of collective bargaining.

The language contained in G.11 provides for:

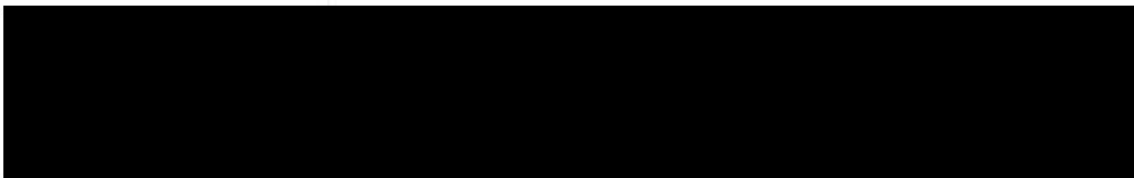
*"The Superintendent of Schools or their designate, may grant five (5) paid days per year leave with seven (7) days written notice from the employee to participate in Aboriginal Cultural event(s). Such leave shall not be unreasonably denied."*

Letter of Understanding #14 - Cultural Leave for Aboriginal Employees as follows was inserted to cover those districts that had agreed to language pertaining to Cultural Leave:

*"Employees in School Districts No. 61 (Greater Victoria), No. 64 (Gulf Islands), No. 85 (Vancouver Island North), No. 92 (Nisga'a) and No. 93 (Conseil Scolaire Franchophone de la Colombie-Britannique) who have leaves in excess of those provided for in G.11 Cultural Leave of Aboriginal employees shall maintain those leaves.*

*For clarification, the new leave provisions of Article G.11 are not in addition to the current provisions contained in the Local Collective Agreements."*

The parties to the collective agreement are requesting clarification on two issues:



Does the five (5) paid days leave apply to all those who are covered by the Provincial Collective Agreement?

Rather than citing the differences in the five (5) collective agreements referenced in Letter of Understanding #14, I have attached their specific language to this document.

G.11 provides that aboriginal employees who are covered by the Provincial Collective Agreement have an entitlement of five (5) days paid leave per year, upon approval of the Superintendent of Schools or their designate, with seven (7) days written notice to participate in cultural events.

As in discussions during collective bargaining/mediation, the goal is to standardize collective agreement provisions across the province; therefore, aboriginal employees covered by the Provincial Collective Agreement, other than the five school districts set out in Letter of Understanding #14, would be entitled to five (5) paid days leave.

In the five school districts that have provisions for leave to participate in a cultural event, employees would be entitled up to five (5) of the current unpaid leave days to be five (5) paid days. These paid days are not in addition to the current leave provisions but rather substitute for those where unpaid. If there are provisions in the collective agreement for paid or unpaid leave beyond the new provision, aboriginal employees would maintain their entitlement to those leaves.

In the case where currently there are other paid leaves (i.e. Bereavement Leave) provided for under the collective agreements, those leaves and the new Cultural Leave provision would be separate and distinct from each other.

Where a collective agreement currently provides for paid leave to participate in a cultural event, the provision contained in G.11 would not be in addition to any current paid leave which would exceed that provided for in the existing clause(s).

What is the defined as a Cultural Event to which this leave would be applied to?

The definition of a "Cultural Event" may be one that the parties continue to discuss in future negotiations as part of an evolving process. The issue that the parties have requested clarification on is what could "Cultural Events" consist of.

Following a review of the submissions of the parties and research on the issue of Culture as provided for under the Constitution of Canada, it is possible to determine what "Cultural Events" could include in the application of the new language.

Culture is a broad term which includes:

- Individual activities
- One on one activities
- Group activities
- Family responsibilities
- Activities hosted by an organization

Cultural activities can take place at a variety of locations, both outdoors and indoors, including inside at private residences. This leave can also be intended to be used to plan and prepare for cultural activities.

Cultural activities may include, but are not limited to, the following:

- Harvesting plants or hunting animals
- Food preservation and distribution
- The maintenance of a cultural site or travel to a culturally significant site
- Providing service to an elder
- Mentorship relationships
- Cultural exchanges
- Learning, practicing, rehearsing, or performing singing, drumming or dancing
- The creation of materials such as baskets, ties, beadwork, art, tools, clothing, shelter, etc.
- Events such as ceremonies, pow wows, book launches, storytelling, feasts, memorials, rites of passage
- And other types of gatherings.

The above list is meant to be illustrative in nature and is not intended to be exhaustive but for establishing the base clarification.

The above would not cover such activities as family barbeques or other such family gatherings of a like or similar nature.

Requirement by Employers for information from Aboriginal employees requesting Cultural Event Leave under the Collective Agreement

Cultural Events as indicated, may take many forms and/or formats in communities throughout the province in which the participants share their knowledge and experiences with others, while some Cultural Events may be of a more personal nature.

The requests for Cultural Leave should not have to be more descriptive nor should the review and approval of the request be based on a perception of what the Cultural Event is, than would any other request for any other Leave under the Collective Agreement.

Summary

As the parties have requested, the foregoing is meant to provide clarification in the application of the new Cultural Leave provisions in the collective agreement.

Regards,

