

IN THE MATTER OF AN ARBITRATION

BETWEEN:

BOARD OF SCHOOL TRUSTEES OF SCHOOL DISTRICT NO. 39 (VANCOUVER)  
(hereinafter referred to as the "Board")

AND:

VANCOUVER TEACHERS' FEDERATION  
(hereinafter referred to as the "Union")

(Layoff and Recall Procedure)

Arbitrator:	H. Allan Hope, Q.C.
Counsel for the Employer:	R. Alan Francis
Counsel for the Union:	John Rogers
Place of Hearing:	Vancouver, B.C.
Date of Hearing:	May 15 and November 16, 1995

CONSENT AWARD

This award follows upon a Preliminary Decision published on the 4th day of April, 1995. That decision should be read with this award for purposes of clarity and setting out the background of the dispute. In the resumption of proceedings the parties agreed to adopt a mediation/arbitration process as a medium for the resolution of the dispute. During the mediation phase of the proceedings they reached consensus with respect to an interim resolution of the dispute which they proposed to implement on a trial basis. That interim resolution involves a process which will govern in any future circumstances where teachers are placed on layoff or recalled to service. Following are the steps to be implemented in that process:

- (1) The parties will establish a joint layoff and recall Committee composed of two representatives appointed by the Board, and two representatives appointed by the VTF, one from VESTA and one from VSTA.
- (2) Decisions by the Committee will be made by consensus. Where the parties are unable to reach consensus, either party may refer an outstanding issue to a mediator/arbitrator designed by them pursuant to paragraph 7. Decisions reached by the Committee or by the arbitrator will be binding upon the parties under the arbitration provisions of the Labour Relations Code.
- (3) The Committee will make a preliminary determination as to which teachers are vulnerable to layoff at any given period. In particular, the Committee will designate a point on the seniority list below which teachers may be subject to layoff in the future.

\* The Collective Agreement  
has been re numbered  
since this arbitration

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Article 14 now = C.23  
Article 7 now = E.21

(4) The Committee will develop a procedure to govern the layoff and recall of those teachers in the event a layoff occurs. That procedure will incorporate the following principles:

- (a) It is acknowledged that Article ~~14~~<sup>C.23</sup> of the collective agreement governs in the layoff and recall of teachers and that it takes precedence over Article ~~7~~<sup>E.21</sup> in the sense that Article ~~7~~<sup>E.21</sup> will be administered consistent with the provisions of Article ~~14~~<sup>C.23</sup> in terms of the exercise of seniority rights of teachers. :
- (b) Article ~~14~~<sup>C.23</sup> provides that teachers will be placed on layoff by seniority subject to the necessary qualifications as defined in Article ~~14.D~~<sup>C.23, S</sup> for the position available. The Committee will create a form whereby teachers who are deemed vulnerable to a possible layoff pursuant to paragraph (3) can assert qualifications which may be relied upon in the exercise of their seniority rights in the event of a layoff.
- (c) The Committee will assess the qualifications of teachers. Where the Committee is in agreement, the qualifications asserted will be recorded. Where the qualifications are rejected by the Committee, the teacher asserting the qualifications will be advised and the teacher will not be entitled to rely on those qualifications in the event of layoff. Where the Committee remains in dispute about particular qualifications, the dispute will be referred to the mediator/arbitrator appointed by the parties pursuant to paragraph (7).
- (d) Where a teacher has been given notice of layoff but is not subsequently laid off, that teacher is entitled

to reclaim his/her previous position if that position continues to exist, subject to the exercise of superior seniority rights by other teachers.

- (5) The Committee will develop a procedure for the recall of teachers following a layoff which incorporates the following principles:

- C.23
- (a) Article ~~14~~ contemplates that teachers will be recalled in order of seniority provided that they possess the necessary qualifications as defined in Article ~~14.D~~ C.23.5 for the positions available. The Board will send a descriptive notice (which may be a posting) to employees on the recall list advising them of positions which are available. It is the obligation of laid off teachers to inform the Board whether they are available for short term assignments.
- (b) The Committee will evaluate qualifications of applicants for recall. Where the Committee agrees with respect to the acceptance or rejection of particular qualifications, that determination will bind the parties. Where there is a dispute between the parties with respect to whether a teacher is qualified for a particular position, the dispute will be referred to the mediator/arbitrator and her/his decision will bind the parties.

- (6) The Board will provide the Committee with notice when it determines that a layoff is likely. The Committee will immediately convene to identify the teachers likely to be affected by the proposed layoff. The Committee will ensure that affected employees are advised of their right to claim other positions based upon their seniority, subject to their

qualifications as recorded by the Committee. Teachers are required to exercise their rights as expeditiously as possible. Teachers affected by the exercise of seniority rights will be notified and will be advised of any rights they have to claim other positions based upon their seniority and qualifications as recorded by the Committee.

- (7) The Committee will utilize one or more of the following mediators/arbitrators to ensure that impasses in the process are resolved expeditiously:

Allan Hope


Other agreed names

- (8) Teachers placed on layoff will continue to accumulate seniority while on layoff pursuant to the terms of the collective agreement as clarified by the terms of the joint letter dated March 28, 1994.

- (9) Teachers who are laid off continue to have recall rights to a position or positions equivalent to the position or positions they occupied at the time of layoff. That is, teachers will be entitled to exercise a partial right of recall until they have reached the equivalent of the assignment they occupied at the time of layoff. However, a partial right of recall cannot be exercised during the school year except with the consent of both parties if the exercise of the partial right of recall would require restructuring or partial filling of a position, or involve a teacher vacating an existing position. However, a teacher who retains a partial right of recall during the school year will be entitled to exercise full rights of recall to claim positions for the following school year.

The parties agreed that the initiation of the process contemplated in this Award will constitute a full and binding resolution of the grievance that gave rise to the proceedings. This consent award does not create any additional rights under or amend the collective agreement.

DATED at the City of Vancouver, in the Province of British Columbia, this 20th day of November, 1995.



H. ALLAN HOPE, Q.C. Arbitrator