

**Horizon School Division No. 67**  
**Regular Board Meeting – Division Office**  
**ERIC JOHNSON ROOM**  
**Tuesday, May 17, 2016 – 1:00 p.m.**

***Regular Board Meeting Agenda***

**A – Action Items**

- |  |  |
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| <p>A.1 Agenda<br/>A.2 Minutes of Regular Board Meeting held Tuesday, April 19, 2016<br/>A.3 April/May 2016 Payment of Accounts Summary</p> | <p><b>ENCLOSURE 1</b><br/><b>ENCLOSURE 2</b></p> |
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**D – Discussion Items**

D.1	
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**I- Information Items**

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| <p>I.1 Superintendent's Progress Report<br/>I.2 Trustee/Committee Reports<ul style="list-style-type: none"><li>• 1.2.1 Zone 6 ASBA Report – Marie Logan</li><li>• 1.2.2 May 10, 2016 Admin. Meeting Report – Blair Lowry</li><li>• 1.2.2 Facilities Committee Report- Derek Baron</li></ul>I.3 Associate Superintendent of Finance and Operations Report – Phil Johansen<br/>I.4 Associate Superintendent of Programs and Services Report – Clark Bosch</p> |  |
|---|--|

**Correspondence**

- |   |                           |
|---|---------------------------|
| <ul style="list-style-type: none"><li>• May 2016 Education Law Reporter</li></ul> | <p><b>ENCLOSURE 3</b></p> |
|---|---------------------------|

# Horizon School Division No. 67

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The Board of Trustees of Horizon School Division No. 67 held its Regular Board meeting on Tuesday, April 19, 2016 beginning at 1:00 p.m. in the Eric Johnson Room.

TRUSTEES PRESENT: Marie Logan, Board Chair  
Bruce Francis, Board Vice-Chair  
Blair Lowry, Jennifer Crowson, Terry Michaelis, Rick Anderson, Derek Baron

ALSO PRESENT: Dr. Wilco Tymensen, Superintendent of Schools  
Phil Johansen, Associate Superintendent of Finance & Operations  
Clark Bosch, Associate Superintendent of Programs, Services & Human Resources  
Amber Darroch, Associate Superintendent of Curriculum & Instruction  
Nikki Jamieson, Taber Times  
Barb McDonald, Recording Secretary

## ACTION ITEMS

A.1 Moved by Blair Lowry that the Board approve the agenda as presented with the following addition:

### Under Action Items:

A.6 – School Security Cameras

Carried Unanimously

AGENDA APPROVED  
58/16

A.2 Moved by Terry Michaelis that the Board approve the *Minutes of the Regular Board Meeting held Tuesday, March 15, 2016*, as provided in Enclosure 1 of the agenda.

Carried Unanimously

BOARD MEETING  
MINUTES APPROVED  
59/16

A.3 Moved by Rick Anderson that the Board approve the *Minutes of the Special Board Meeting held Wednesday, March 16, 2016*, as provided in Enclosure 2 of the agenda.

Carried Unanimously

MINUTES OF THE  
MARCH 16, 2016  
SPECIAL BOARD  
MEETING APPROVED  
60/16

A.4 Moved by Bruce Francis that the Board approve the *Minutes of the Special Board Meeting held Monday, March 28, 2016*, as provided in Enclosure 3 of the agenda.

Carried Unanimously

MINUTES OF THE  
MARCH 28, 2016  
SPECIAL BOARD  
MEETING APPROVED  
61/16

A.5 Moved by Rick Anderson that the Board approve the *March/April 2016 Payment of Accounts Report* in the amount of \$2,453,653.14 as provided in Enclosure 4 of the agenda.

Carried Unanimously

PAYMENT OF  
ACCOUNTS REPORT  
APPROVED  
62/16

A.6 Moved by Derek Baron that the Board provide \$15,000.00 from Board reserves for the installation of school security cameras.

Carried Unanimously

INSTALLATION OF  
SCHOOL SECURITY  
CAMERAS USING  
BOARD RESERVES  
APPROVED  
63/16

## **DISCUSSION ITEMS**

### **D.1 Policy IHCE – Student Illness/Injury**

Wilco Tymensen recommended an amendment to the above policy (Regulation 3.1.1).

The original wording to the regulation read as follows: *It shall be the responsibility of each school Principal to ensure that a vehicle is at the school each school day for the purposes outlined in the policy statement.*

The recommended amendment will be changed to read as follows: *Each School Principal shall be responsible to endeavor to have a staff vehicle at the school each school day for the purposes outlined in the policy statement.*

## **INFORMATION ITEMS**

### **I.1 Superintendent's Progress Report**

Wilco Tymensen's April report to the Board was enclosed in the agenda and included the following information:

#### **Educational Leadership and Student Welfare**

- Dialogue between schools and division office are ongoing. Conversation topics are typically regarding processes that ensure student safety and well-being, financial management, instructional leadership and off-campus activities.
- Participated in a CASSIX Teacher Quality Standards and School Leader Standards feedback session. CASS is collecting member feedback to provide to AB ED regarding the new standards for teachers, school leaders and school system leaders that are to be in place for the 2016-2017 school year

#### **Fiscal Responsibility**

- AB ED has announced that they will be transitioning to quarterly updates until the end of 2016 and then enhancing financial accountability requirements. Will be implementing monthly reporting.
- Division oversight regarding the financial expenditures of the Warner Hockey Program are ongoing
- Preparation for the Jurisdiction's budget for 2016-2017 is underway in response to the April 14<sup>th</sup> release of the provincial budget and jurisdiction changes communicated previously to principals and board members.

#### **Personnel Management**

- Recruitment for a new Principal of Lomond School was concluded. We are pleased to have Travis Magierowski as our successful applicant. With Travis' new role, we are currently undergoing a search for a new Principal for Erle Rivers Jr./Sr. High School. Meetings to collect input from parents and staff occurred for both positions
- Principal evaluations regarding their term positions and evaluations for new Associate Superintendents are in progress and schedule to be concluded in the upcoming month.
- Participated in an AB ED conference call participation regarding collective bargaining

#### **Policy and Strategic Planning**

- Senior Administrative Leadership Team Meeting
- AB ED Capital Planning Review participation
- Policy IHF (*Welcoming, Respectful and Safe Learning Environments*) refinement occurred based on ongoing parent and community feedback. The policy received final approval on March 30<sup>th</sup>

#### **Organizational Leadership and Management**

- Meetings with DAF/WRM Administration, Sahuri and Alberta Infrastructure and Alberta Education

#### **Communications and Community Relations**

- A number of other meetings and celebrations have taken place over the last month which included:
  - APEX Youth Awards
  - Schools Administrators' Meeting
  - Copperfield Colony School's graduation ceremony
  - Family School Liaison Program staff meeting
  - Warner Hockey Society meeting
  - Division Office staff social
  - Barnwell sod turning ceremony
  - Board tours of Milk River Elementary School, Erle Rivers High School and Warner School

- School visits also took place at Taber Mennonite School, ACE Place, Lomond School, Hays School, Vauxhall High School, Chamberlain School and Enchant School.
- Dr. Tymensen also provided an update on the D.A. Ferguson/W.R. Myers modernization which has stalled due to the Alberta Infrastructure's realization that the entire facility requires a new sprinkler system to be installed in order to comply with new codes and that this additional expense was not included in the original modernization allocation. Alberta Infrastructure who is managing the modernization is reviewing this oversight and exploring options.

## **I.2 2016 Edwin Parr Nominee**

Vauxhall Elementary School teacher, Kaitlyn Smith has been selected as the 2016 Edwin Parr Nominee for Horizon School Division. The Edwin Parr Award recognizes outstanding beginning teachers across the province for high quality teaching in their first year of service to students. Ms. Smith will join nine other nominees from Zone 6 at the annual Edwin Parr Awards Banquet which takes place on Wednesday, May 11th at the Heritage Inn in Taber where one finalist will be selected to compete for the provincial award.

Ms. Smith teaches Grade 1 at Vauxhall Elementary School and stands out as a beginning teacher with a deep grasp of effective teaching strategies. She is exemplary in how she connects with every child in her class. Not only does she have strong relationships with her students, but she takes those relationships to a higher level by conferencing one on one with her students and having them set learning goals for themselves in language arts and math – even at their very young age! Her student-centered approach also includes the use of breathing/calming exercises to help her young students manage transitions from one activity to another, and by incorporating simple sign language into classroom routines. Kaitlyn is also a very involved professional colleague and community member.

## **I.3 Trustee/Committee Reports**

### **I.3.1 Zone 6 ASBA Report – Marie Logan**

Marie Logan, Zone 6 representative, provided an overview of the ASBA Zone 6 meeting that took place in Lethbridge on 6<sup>th</sup> which included the following information:

- The May Zone 6 meeting will be taking place in the Horizon School Division Board Room on Wednesday, May 11<sup>th</sup>. The annual Edwin Parr Awards will take place the same day following the Zone meeting at the Taber Heritage.
- A committee has been selected to review the Inclusive Education Policy Framework document. This is scheduled to be completed by the end of May 2016

### **I.3.2 Facilities Committee Report – Derek Baron**

Derek Baron, Facilities Committee Chair, provided a report to the Board on the work undertaken during the past month within the Facilities Department including:

- Maintenance Projects including:
  - Decanting at Warner School
  - Painting projects
  - Foliage maintenance, tree pruning and fertilization
  - Surveillance camera upgrades at W.R. Myers and D.A. Ferguson schools
  - IMR and upcoming capital projects

Please *click here* to review the entire April 2016 Facilities Committee Report.

## **I.4. Associate Superintendent of Finance and Operations Report**

Phil Johansen provided an April 2016 update to the Board as follows:

- An agreement has been signed to move forward with a new school generated funds accounting system (KEV). Jason Miller will be working with schools and central office for system implementation and training. The intent is for the new system to go live with the commencement of the 2016-2017 school year
- Ongoing involvement and time spent working with the Barnwell, Warner, DAF/WRM school modernization projects. Additional meetings as well as ongoing communication with Alberta Education will be taking place during the month of May. Spent a considerable amount of time with David LeGrandeur, Principal of Warner School reviewing the Warner Hockey School budgets
- Gathering information for the TEBA (Teacher Employee Bargaining Association) Survey
- Working on the 2016-2017 budget

## **I.5 Associate Superintendent of Programs, Services and Human Resources Report**

Clark Bosch's April report to the Board was distributed and included the following information:

### **Human Resources:**

- Information regarding the **Administrator/Teacher Staffing Process** for the 2016-2017 school year.

It was also noted that for teachers who are under temporary contract and substitute teachers will not be considered for placement until:

- a) All surplus continuing contracted teachers and teachers returning from leave have been placed.
- b) Continuing contract teachers have had the opportunity to apply, and be considered for positions.
- c) Probationary teachers are considered and given preference.

All **Open Competition Positions** will be posted on our Division website and Apply to Education. Candidate(s) will apply via the online process on our Division website.

### **Early and Inclusive Learning:**

- Robbie Charlebois has met with all school administrators and LST's about student projections and Response to instruction and intervention models.
- PUF Audit is complete - 3 students were selected from HSD
- LST's have been asked to begin transition planning process for students who require more intensive supports.
- Intranet - we have asked for LST feedback to make sure we include necessary information for easy access
- The remaining dates for Pre-K Screening are as follows:
  - April 19th LT Westlake
  - April 20th Warner
  - April 26th Vauxhall
  - April 27th Enchant
  - April 29th Milk River \*This will most likely be moved to April 20th with Warner
- April 19, 20 - Lethbridge - Self-Regulation 2 Day training (Laura, Terri-Lynn and Robbie)
- April 25th - Ready to go - support staff doing online sign up for afternoon breakout sessions
- Robbie will deliver professional learning regarding the Inclusive Education Policy Framework for administrators and learning support teachers in May.
- Early Learning has been hosting Family Orientated Programming Sessions throughout the Division. We held one at the Taber Gymnastics Club, at the end of February, that lead the children through simple motor activities while working on language concepts and speech skills. We also held one in Warner last Thursday, and have another in Vauxhall this Friday, called Book Sharing. With parents, we discuss the benefits of books and strategies to implement while reading books together with their child.
- Robbie attended the monthly SW RCSD meeting. Laura was invited to attend the SW RCSD Mental Health Committee meeting.
- Terri-Lynn and Glenn hosted a SIVA Refresher training for those whose SIVA certificates were about to expire. The training was 1 full day and had 12 participants.
- Laura did an evening parent presentation at Central School on parenting strong-willed children.
- Robbie and Laura attended a behaviour seminar in Calgary called 'Save Your Sanity' by Colleen DeVeyrac. Training was on proactively supporting children and youth.
- Elisha attended the Early Childhood Development Coalition Conference in Edmonton. The Conference was hosted by Family & Community Support Services Association of Alberta. There were a lot of Members of coalitions were given opportunities to talk and share ideas of what they have done.
- JoAnn and Tanya have finished facilitating the Hanen Program *Learning Language and Loving It* to all our Instructors and Speech Language Assistants. This program had 8 sessions to it and has been ongoing since October.
- Robbie and Laura started participating in a new initiative with Severe/Complex Behaviour Community of Practice. It is an online based collaborative effort of all 17 RCSD regions throughout the province.
- Angela, Glenn, Amy Davis (counsellor) and Alyson Archibald are facilitating a 'Go To' Educators Training this Thursday, March 17th and Friday, March 18th.

- Budget time is upon us again and we will be referring to Centralized and Decentralized funds:
  - **What are Centralized Funds?** - Centralized Inclusive Learning funds are intended to meet the needs of students who require more individualized support, and to ensure that specialized services, such as psychologist/behaviour support, are accessible to students in all schools, regardless of school size, location or demographics, through division office.
  - **What are Decentralized Funds?** - Decentralized funds are a means of channeling resources “to provide for a continuum closer to the learner” (*Planning for a Continuum of Specialized Supports and Services*, Alberta Education, 2012). Schools are best placed to identify the strengths and needs of each learner and to plan for and provide universal supports and targeted interventions. Learner profile data gathered from assessments, such as literacy or numeracy benchmark assessments, or from interest/learning preferences inventories, enable schools to establish their own priorities in terms of the strategies and interventions needed. Decentralized funds are weighted to reflect the need for early intervention, with Div. I students receiving 38% of funds, Div. II 28%, Div. III 22% and Div. IV 12%. Decentralized funds may be used to provide or enhance supports such as:

#### **FNMI Education:**

- Lisa Sowinski continues to enable some parents to get to and from appointments with appropriate service agencies. Many of our families in need have no way to keep these appointments without Lisa’s help.
- Lisa has attended school-based meetings along with students and parents in an effort to assist in success planning for our FNMI students who are struggling.
- Lisa continues to transport some students to school, and continues to facilitate the picking up and dropping off of homework for students who have been ill.

#### **Counselling:**

- Mentorship sessions have been completed or are ongoing at L.T. Westlake, DAF, VES, VHS, and W.R. Myers, Dr. Hamman, Central and W.R. Myers students as mentors. Our FSLC’s and Family Connections Workers facilitate and organize the program.

#### **Angela Miller - Clinical Team Leader**

- Attended RCSD Mental Health Meeting in Lethbridge in December to update other divisions on what our Family School Liaison Program is doing in Horizon. Gathered resources from other Counselling Coordinators to share with the Horizon Team. Attended a four-day Cognitive Behaviour Training workshop in Calgary with two other counselors.
- Attended a Family Connections South Zone Project Coordinators meeting in Brooks to plan for a cost share PD session in Brooks April 11, 2016 from Sheldon Kennedy on Abuse. Community members and staff from Horizon School Division will be invited.
- Provided a Fourth R training workshop on health relationships to community members and Horizon staff.
- Hosting our second Lethbridge College CYCW practicum student with Family Connections.
- Attended a FMNI strategic planning meeting in Lethbridge with Lisa Sowinski on how to best serve our FMNI population and how to address the gaps in resources in the community.
- Provided approximately 44 supervision sessions for FSLP staff and was available by phone for consultation to staff.

#### **Career Counselling:**

- Discussions with schools have led to very positive reviews of the performance of both Kristin and Garth, our career counsellors.
- We will soon be discussing the future roles and assignments of both of our Career Counsellors.
- We will continue to focus on grade 11 student individual appointments as the second semester continues.
- Garth and Kristin are busy completing career presentations to all students in the division taking Career and Life Management. (CALM)
- We will continue to inform, encourage, support and guide Grade 12 students as they enter scholarship competitions

### **High School Redesign:**

- Advisor Programs are up and running at VHS, ERHS and WRM. Warner will be beginning an Advisor Program next year.
- We will be hosting Alberta Education officials for a meeting with our High School Principals meeting on April 27 where we will be visiting all things in the High School world in an effort to report on, and continue to move forward on, the foundations of the HS Redesign project. These foundational areas include:
  - Mastery Learning
  - Rigorous and Relevant Curriculum
  - Personalization
  - Flexible learning Environments
  - Educator Roles and Professional Development
  - Meaningful Relationships
  - Assessment
  - Welcoming, Caring, Respectful and Safe Environments
  - Home and Community Involvement

### **Hutterian Brethren Schools:**

- Currently waiting for the announcement on a date for the opening of Goldspring Colony. (Miltow Colony split)
- Gary is in the process of calendar development for the 2016-17 school year.

### **Teacher Evaluation:**

- I continue to evaluate ten teachers and Robbie.

### **College of Alberta School Superintendents:**

I attended the spring CASS learning symposium in Calgary where I took part in sessions dealing with Alberta Education directions in Human Resources, literacy, numeracy, assessment, school improvement, and possible future directions for FNMI learners.

## **I.6 Associate Superintendent of Curriculum and Instruction Report**

Amber Darroch's April report to the Board was distributed and included the following information:

### **KEY ACTION AREA #1:**

#### **Ensure core instruction that enhances the development of student competencies (Ministerial Order #001/2013) and incorporates relevant, meaningful, engaging, hands-on, and interdisciplinary learning experiences.**

- Literacy Instruction – The Director of Learning (C&I) attended a workshop hosted by Kylee Beers and Bob Probst on “Encouraging Attentive & Engaged Adolescent Readers of Fiction and Nonfiction: The Signposts and Strategies that Matter Most” through SAPDC.
- Numeracy Instruction – Dr. Richelle Marynowski from the U of L presented to the Numeracy Committee on numeracy and assessment on the morning of April 18<sup>th</sup> and in the afternoon the group worked together to develop common assessments that could be shared and used at all schools.
- Assessment – The Associate Superintendent facilitated meets with the elementary and junior high report card working groups to further refine our report card templates and share alternatives for assessment management software. In a different activity, teachers had the opportunity to come to District office for a Diploma exam and Provincial Achievement test exam review of important documents.
- Science Olympics - Jr. High Science teachers and the Director of Learning (C&I) have organized the Science Olympics event scheduled for May 18, 2016 from 9:30 to 2:30. The committee would like to invite a board member to be a judge on this day.
- Professional Learning – the third and final division wide professional learning day will be held next Monday, April 25<sup>th</sup>. Robbie Charlebois has designed a program for assistants that includes a morning keynote address from Dr. Robbin Gibb from the U of L on brain research and a wide variety of breakout sessions in the afternoon. Teachers will meet in their collaborative groups (Teachers Learning through Collaboration – TLC) for the morning, then will be together as a whole group in the afternoon. The afternoon session will be focused on sharing the recommendations for division-wide report cards for kindergarten, elementary and junior high, as well as a demonstration of a software program that could help manage the assessment data quite easily.
- Student-Centred Learning – The Associate Superintendent attended a two-day summit on “Ed Tech Strategies” in Toronto as one of two representatives from provincial CASS. The summit included K-12 and Higher Education and showcased innovative approaches to engage students.

## KEY ACTION AREA #2:

### **Employ a Response to Instruction and Intervention Framework for teaching and learning to improve literacy and numeracy proficiency and enable all students to reach higher levels of academic achievement.**

- Mental Health Literacy – the Go-To Educator training based on Dr. Stanley Kutcher’s work in the area of supporting adolescent mental health was hosted by Horizon and co-presented by Angela Miller, Glenn Jankowiak, Amy Davis and Alyson Archibald. The participants included division staff as well as 8 community partners. The focus of the learning was breaking down the stigma of mental health disorders and giving educators an informed perspective on the types of mental health concerns youth in schools may be dealing with.

## KEY ACTION AREA #3:

### **Increase parent and community engagement through reciprocal and collaborative relationships.**

- District Wellness – The Health and Wellness committee met as one large group lead by Alberta Health Promotion Coordinator Norah fines and the Director of Learning. Almost all schools in our district had a representative at the meeting where there was a focus on what do we already do in our district to meet the needs of students in Comprehensive School Health and what new ideas and initiatives could we start
- International Education - The International Coordinator has been contacting all international education agents through a list provided by CAPS-I (Canadian Association of Public Schools-International) and we have been video conferencing with agents to discuss possible partnerships between their agencies and Horizon School Division. We currently do not have any International Students registered for the fall.
- Friends of Horizon – It was with disappointment that the “Friends of Horizon” celebration scheduled for April 14 had to be cancelled. There were too few responses from past and present homestay families to warrant proceeding with the event. Instead, a Certificate of Appreciation was mailed to each host family. The International Education program could not succeed without the generosity with which these families share their homes with visiting students.
- Project Citizenship at Lomond School – The Director of Learning (C&I) attended the event and acted as a judge for the student projects. This project-based culminating activity is a great illustration of how Career & Technology Foundations (CTF) can really be brought to life through real-world challenges.
- Low German-Speaking Mennonite Liaison – The liaison worker continues to share information about congregated home school settings which may compete for Horizon students in the 2016-17 school year. It’s perceived that Mennonite families continue to move to southern Alberta in search of work, leaving Ontario where unemployment is higher and Mexico where living conditions/safety may be a concern. The liaison worker and Associate Superintendent are meeting this week to review the year to date activities with each Horizon school.

## LEADERSHIP PRACTICES

- Leadership Symposium 2016 – The Learning & Technology Policy Framework (LTPF) school administrator community of practice recommended our symposium this year focus on strategic leadership for innovation. Suhayl Patel from Apple Education is facilitating a program for all school leaders on Thursday, April 21 and senior administrators will follow up on Friday with promoting leadership, change management and innovation related to Horizon’s Three Year Education Plan and each school’s goals.
- Automated Absence and Substitute Management System –All teacher absences and substitute teacher bookings have been made through the automated system since April 4<sup>th</sup>. The learning curve has been steep for some as they get used to using the tool, but difficulties are being ironed out as individuals learn how the system works and how to use it to their benefit.
- Upgrade of Wireless Network Infrastructure – In order to ensure a standard of functional wireless connectivity in all classrooms, the board approved the use of technology reserves to expand the required infrastructure. The quote for the access points and the switches (hardware) required to expand the capacity of the networks at each school has come in at approximately \$217,000 plus soft costs like cabling and connections, compared to the original projection in late 2015 of \$173,500. The increase in costs is primarily attributed to adjustments vendors have made for the low Canadian dollar over the winter.
- CASSIX Consultation on the Draft Teacher Quality Standard and School Leader Standard – the Associate Superintendent facilitated a full day meeting of senior admin from five Zone 6 jurisdictions to discuss the draft TQS and SLS and next steps for implementing it next year. All feedback was shared to provincial CASS to be included in a response to Alberta Education.



**Correspondence**

**No items of discussion** came forward from Correspondence as provided in Enclosure #4 of the agenda.

**COMMITTEE ITEMS**

Moved by Terry Michaelis that the Board meet in Committee.

Carried Unanimously

COMMITTEE  
64/16

Moved by Derek Baron that the meeting reconvene.

Carried Unanimously

RECONVENE  
65/16

Moved by Jennifer Crowson that the meeting adjourn

Carried Unanimously

MEETING  
ADJOURNED  
66/16

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Marie Logan, Chair

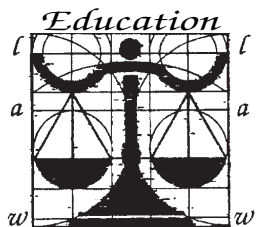
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Barb McDonald, Secretary

**PAYMENT OF ACCOUNTS REPORT**

**Board Meeting - May 17, 2016**

<b>U.S. Funds</b>	<b>April 7/16</b>		<b>555.56</b>
<b>General</b>	<b>April 12/16</b>		<b>244950.75</b>
<b>General</b>	<b>April 13/16</b>		<b>587,769.21</b>
<b>U.S. Funds</b>	<b>April 18/16</b>		<b>261.01</b>
<b>General</b>	<b>April 19/16</b>		<b>68,163.78</b>
<b>U.S. Funds</b>	<b>April 25/16</b>		<b>501.29</b>
<b>General</b>	<b>April 25/16</b>		<b>280,245.75</b>
<b>General</b>	<b>April 26/16</b>		<b>1,185,729.89</b>
<b>General</b>	<b>May 3/16</b>		<b>87,679.77</b>
<b>U.S. Funds</b>	<b>May 5/16</b>		<b>146.40</b>
<b>General</b>	<b>May 10/16</b>		<b>564,780.44</b>
<b>"A" Payroll</b>	<b>April 2016</b>	<b>Teachers</b>	<b>1,681,369.02</b>
	<b>April 2016</b>	<b>Support</b>	<b>588,154.13</b>
<b>"B" Payroll</b>	<b>April 2016</b>	<b>Casual</b>	<b>13,619.09</b>
	<b>April 2016</b>	<b>Subs</b>	<b>47,464.09</b>
<b>Total Accounts</b>			<b>5,105,883.87</b>
<b>Board Chair</b>	_____		
<b>PJ:dd</b>			
<b>May 11/16</b>			



# Education Law Reporter

## Online Research Services

Vol. 27, No. 9, May 2016

Elementary & Secondary

### EDITORIAL

## Medicinal Marijuana in the Schools

Lorenzo Lisi, a Labour & Employment partner with Aird & Berlis in Toronto, recently wrote an interesting article entitled **Medical Marijuana in the Workplace: Employer Rights “Up in Smoke?”**<sup>1</sup>, in which he discusses the range of issues starting to arise as the legalized use of marijuana for medicinal purposes expands across Canada.

While this seems, at first glance, to be a new issue it really isn't. Employees (even teachers) have long made perfectly legitimate use of medications which would otherwise be considered illegal drugs to control pain while on the job, and as a general rule this isn't a problem. The real problem, perhaps, lies with the images and standards associated with marijuana, including stereotypes of long-haired hippie stoners and addicts who start selling drugs to support their own habits. This may seem ridiculous to members of the Baby Boom and their younger cohort, but when it comes to the safety of children, nothing is truly ridiculous. And that is the problem: there can be a kind of knee-jerk reaction to the very idea of marijuana which could lead a well-intentioned school administrator into trouble.

An example of this is seen in the case of *Calgary v. CUPE*, 2015 CanLII 61756 (AB GAA) 2. Chuck Hanmore had worked with the Roads Department of the City for many years, working his way up to the level of “Equipment Operator 7,” running graders, tandem loaders, sanders and street sweepers. In 1992, he suffered a workplace injury to his neck, which led to the development of degenerative neck disease and chronic pain. In 2009, his doctor prescribed “Cesamet,” a synthetic cannabinoid, which gave him lasting relief from his pain. He found the effects of the drug rather “overwhelming,” however, and asked his doctor if medicinal marijuana might be a better choice. His doctor provided him with the necessary documentation to obtain a permit from Health Canada to possess marijuana for medical purposes in October of 2009. He advised two of his supervisors about his use of medical marijuana, and continued to work as before, operating heavy equipment in a safety sensitive service. There were no incidents, and no suggestion that he was ever impaired while at work.

In 2011, certain other managers became aware of Mr. Hanmore's situation, and as a result he was immediately removed from his duties. In fact, he was ordered off the job on the spot – which required him to drive his grader, alone, through the city from his job site and back to the yard of the Roads Department, which was completely against City policy on suspected impairment. He was not given a drug test to determine whether or not he was fit for duty. Instead, he was moved from his usual position to a less safety-sensitive capacity.

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## STUDENTS and THE LAW

## Donation Not Discrimination

*Facts*

An investigation followed, eventually resulting in Mr. Hanmore being sent for an independent medical evaluation. The doctor who conducted the evaluation noted that if Mr. Hanmore had been a regular user of marijuana prior to his use of the product for medicinal purposes, there could be a dependency problem. Mr. Hanmore's evidence was that he only smoked a very little, at night before bed, was never impaired while at work, and apart from having experimented with marijuana when he was a teenager, had not used it before having it prescribed. However, certain City employees were under the impression that he had said he had been using marijuana "for fifteen years." The worker denied this, and said that he might have said he first tried it when he was fifteen.

In any event, the employer really didn't take steps to determine whether or not there was a dependency problem. They relied on the possibility of a dependency problem to deny the worker a return to his usual job. In short, they failed to do their due diligence and, made their accommodation decisions with something less than good faith.

Accordingly, the City was ordered to restore the worker to his previous job and repay him any lost compensation. The arbitrator added some conditions related to monitoring the worker, on an ongoing basis, to ensure that dependency did not develop, but these were largely common-sense provisions.

The lesson in this is that an over-reaction to the medical use of marijuana by an employee will waste time and resources. Instead, employers such as schools should conduct a common-sense evaluation of the situation and the risks, bearing in mind that where there is medical marijuana there is a medical condition, which may amount to a disability, which must be accommodated under human rights legislation.

(Footnotes) <sup>1</sup> Published in the Aird & Berlis March 28 2016 online newsletter at: [www.airdberlis.com](http://www.airdberlis.com)

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In the Fall of 2013, a particular school within the Toronto District School Board (the "School") received an offer from a former student of free winter coats and clothing for a few families at the school. Around this same time, a highly publicized inquest into the death of another student (not at the same School, so far as is known) was going on. This other student had died from neglect and the educational community was very sensitive to the subject. The Superintendent met with all the principals in the Board's purview to discuss how to identify potential cases of neglect and what to do about them. After this, and after receiving the offer from the former student, the principal met with teachers to ask for suggestions. One of the suggestions made was to give some of the coats and clothes to the children of AH, a single mother with 5 children, four of whom attended the School. AH's family was chosen because teachers in the School had noted that on two recent class trips, AH's children were not dressed warmly enough. Other information given by the teachers was that the children did not always have a lunch to bring with them, one of them often came without socks, and they didn't have snacks sent from home, as other kids did.

Acting on this information, the principal met with AH on December 2013, and offered her warm winter clothing for her children. AH declined. The principal went on to talk about the high cost of good-quality winter clothing, and urged her to accept the offer. AH again declined. The vice-principal joined the meeting and encouraged her to take the offer, as well. AH felt degraded by the offer and did not accept. Instead, on December 16 she complained, via e-mail, to a school board trustee about the incident. On December 18, the princi-

pal called Child Protective Services to advise that AH's children did not seem to have appropriate winter clothing and occasionally came to school without lunches.

*Cause of Action*

AH complained to the Ontario Human Rights Board (the "OHRB"), alleging discrimination on the basis of her family status as a single parent with several children. She also alleged that the call to Children's Aid amounted to retribution.

*Decision*

The complaint was dismissed.

*Reasons*

The Tribunal who presided over the hearing into this matter noted how difficult the case had been for all parties. She characterized the school as an excellent one, with caring and dedicated staff, and AH as a loving and good mother. That being said, her obligation was to determine whether the offer had been made on discriminatory grounds or not.

The onus of proving discrimination is on the applicant. Accordingly, AH had to establish that she: a) Had a characteristic protected from discrimination, and b) Experienced adverse treatment in which the protected characteristic was a factor.

The School took the position that there was no adverse treatment because the offer of free winter clothing did not create a disadvantage. This, however, was found to be missing the point. AH believed that the offer was made due to a discriminatory stereotype of single mothers as being unable to provide for their children. It was the application of the discriminatory stereotype which was the adverse treatment, not the offer of clothes.

Despite that, the Tribunal went on to find that the offer of clothing had been made based on evidence, provided by direct observation by the teachers, that the children needed winter clothing. Thus, the offer of free clothing was made in the “sincere belief by the principal that it was needed and not because of stereotypical assumptions relating to the applicant’s ability to provide for her children as a single parent.”

As for the allegations of reprisal, these arose from the fact that the principal called Children’s Aid to advise about the lack of appropriate winter wear and the absence of lunches two days after AH made her complaint to the school board trustee.

Clearly, the timing of the call to Children’s Aid is problematic particularly if, as the principal alleged, it was prompted by long-standing concerns about the children’s lack of lunches and inadequate clothing. Teachers have a statutory duty to report reasonable suspicions of abuse and neglect to the Children’s Aid Society under s. 72 of the *Child and Family Services Act*. However, it was not until after AH rejected the coat offer that a report was made.

The children’s teachers explained that they were used to dealing with this kind of issue on an ad hoc basis. The School had a very transient population, largely due to the existence of a women’s shelter on school premises. The teachers had become used to taking steps on their own to deal with situations like this, and they had been doing so with AH’s kids as a matter of course.

The duty to report to Children’s Aid arises when the would-be reporter has “reasonable grounds to suspect” that a child may be experiencing abuse or neglect. The Tribunal noted that whether a suspicion is reasonable is a matter of judgment, and that this point was demonstrated by the different approaches taken by the teachers (who opted to “fill in the gaps”) as opposed to the principal (who reported to Children’s Aid).

The Tribunal noted that it is not the role of a Tribunal to second-guess an exercise of judgment if there are genuine concerns. While noting that many school administrators might not call Children’s Aid in these circumstances, the principal’s decision to do so was not unreasonable in the circumstances. The lack of lunches and appropriate winter clothing, reported twice in that month after school trips, were possible indicators of neglect.

It is notable that the principal did not call Children’s Aid solely about HA’s family. She reported suspicions regarding the wellbeing of four other students, as well. Further, it must be noted that awareness was at an all-time high due to the matters in issue arising in the Jeffrey Baldwin inquest.

Accordingly, the Tribunal found that the call to Children’s Aid was not reprisal. Before dismissing the complaint, though, she felt it was “important to acknowledge the sincerity of the applicant’s belief that she was reprisal against,” particularly given the timing of the call. However, the same provision that requires teachers and school administrators to report neglect also provides them with immunity from prosecution for doing so if they have a reasonable basis for their suspicions. This is really quite a low threshold, which was met in this case.

*A.H. v. Toronto District School Board*, [2016] O.H.R.T.D. No. 384; 2016 HRT0 392

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## Student Safety is a Planning Issue

### Facts

Jamia Islamia Canada Ltd. built a single-story building with a mosque and subsidiary private school on certain lands in the city of Mississauga. Zoning allowed for the construction of the mosque, of “place of religious assembly,” but had no specific provisions allowing for the use of a portion of the development as a school. The building is located in an industrial or “Employment” area, which adjoins a large residential area.

### Cause of Action

Jamia Islamia applied to the City of Mississauga for a variance to allow for the ancillary use of up to 20% of the premises as a private school.

### Decision

The variance was allowed but delayed in order to ensure the operation of the school met standards.

### Reasons

Mississauga’s Zoning Bylaw (“ZB”) makes no provision for ancillary usage of places of religious assembly as pri-

private schools, but does not appear to forbid it, either. The Planning Act, on the other hand, allows for variances, or relaxations of the rules in the Bylaw, when to do so would further or support the City’s Operating Plan (“OP”). The City accepted the evidence of the planning consultant called by the applicant to the effect that the OP encourages the establishment of community infrastructure projects (which include schools), although in employment areas (as opposed to residential areas), community infrastructure use is limited to 20% of the overall building’s footprint. In this case, the school area was measured at 17% of the mosque’s ground floor space.

An “accessory use” is defined as a use that is naturally and normally incidental, subordinate and exclusively devoted to, and is located on the same lot as the permitted use,” and while a school is not specified as being a recognized accessory use in Employment Area buildings, small private schools are often seen in conjunction with “places of religious assembly.”

Concerns raised at the hearing had to do with evidence that the school was actually using more than 20% of the overall building area. Specifically, indoor

play space was limited and as a result, there was some student “overspill” into the mosque itself. This had the effect of raising concerns as the students might face risks with regard to property standards, fire protection and sanitation in the areas outside the prescribed school walls. Moreover, there is a large discrepancy between 55 students, which is what had been planned for, and 85, which was the actual number. The

Board noted that this particular developer had a pattern of breaching property standards (including issues relating to the fire code) and doing nothing to rectify the breaches until formally charged, at which time a variance allowing the breach would be applied for. It was felt it was no different in this case, and so while the variance was given, the Order sanctioning it was suspended until such time as Jamia Islamia

could demonstrate that “a satisfactory state of affairs” had been achieved at the subject property.

*Jamia Islamia Canada Ltd. v. Mississauga (City)*, [2016] O.M.B.D. No. 153, OMB Case No.: PL150486; OMB File No.: PL150486; Municipal File No.: A138/15

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## TEACHERS and THE LAW

### Mental Disorder as Defence for Teacher

#### Facts

Ms. Hood was a teacher of Grades 5 and 6 who was charged with a number of sexual offences involving two former students, G and L, during 2013.

Prior to these events, Ms. Hood had an impeccable reputation. She was married, with three young children, and had been teaching Grade 6 at the same school, without incident, for 8 years. Then, in 2013, her behaviour changed. Specifically, she began dressing like, and to some degree socializing with, the teen-aged students in the school. She began texting with G, who was 17 years old and had been her student 5 years earlier, and L, who was 15 at the time and had been her student 3 years earlier. These texts were initially friendly, but became increasingly flirty and sexual, and eventually came to include things such as exchanges of sexually explicit photographs and very direct invitations by Ms. Hood to engage in sexual activity with her. She did not actually have sex with G, and her one sexual encounter with L was a “blow job,” given at his request, but the texting and sexual discussions were extensive.

In November of 2013, Ms. Hood was diagnosed with Bipolar Disorder I – formerly referred to as manic-depressive psychosis. There was no dispute that she was, in fact, bipolar and prior to 2013 had no history of, nor had shown any signs of, mental illness.

#### Cause of Action

Ms. Hood was charged with six counts under the *Criminal Code* of luring, sexual exploitation, sexual assault, and so on.

#### Decision

Ms. Hood was found guilty.

#### Reasons

The sole issue for determination by the Court was whether or not Ms. Hood was “criminally responsible” for what she had done. This defence is provided for under s.16(1) of the *Criminal Code of Canada* (the “Code”), which states:

*16 (1) No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong.*

Section 2 of the Code defines “mental disorder” as a disease of the mind. Not every disease of the mind renders a person incapable of “appreciating” the nature and quality of a criminal act. The term “appreciation” is not analogous to “knowledge.” Its exact meaning has been debated and described in numerous cases. One explanation the Court considered was:

*the first branch of the test, in employing the word “appreciates”, imports*

*an additional requirement to mere knowledge of the physical quality of the act. The requirement, unique to Canada, is that of perception, an ability to perceive the consequences, impact, and results of a physical act. An accused may be aware of the physical character of his action (i.e., in choking) without necessarily having the capacity to appreciate that, in nature and quality, that act will result in the death of a human being.*

In this case, for example, it had been argued that Ms. Hood, in a manic phase, actually believed she was a teenager. If that was the case, then her “mens rea,” or intention, would not have been criminal. It is lawful for teenagers to engage with each other sexually. It is the discrepancy in age, in power and knowledge and understanding, that makes even consensual sex between an adult in a position of trust – such as a teacher – and a minor person “exploitation.” If Ms. Hood did not appreciate that she was an adult in a position of trust, then she would not have the necessary intention to make her conduct criminal.

Bipolar disorder, according to more than one of the expert witnesses called at the trial, can put a sufferer into a manic state in which they can be genuinely unable to appreciate the consequences of their actions. But this is not automatic, and therefore the evidence had to be examined closely to see if it supported the hypothesis that, during the relevant time period, Ms. Hood was unable to appreciate the nature and quality of her actions.

In addition to several forensic psychiatrists and Ms. Hood's various treating psychiatrists, a number of coworkers and family members were called to address Ms. Hood's behaviour during the relevant period. The complainants, G and L, testified as did other students and some parents. Also in evidence were transcripts of a great many of the texts she had exchanged with G, L and various other students during this time.

It was generally agreed that during 2013, Ms. Hood's behaviour changed remarkably. She spoke differently, dressed differently, and behaved in what was described as a very self-centred way. She went from spending most of her life as very body-conscious to sending sexual pictures of herself to teenage boys. She spent a lot of time with the older students at the school, expressing a great deal of interest in their social activities. She told one psychiatrist she felt like she was 18, and that she couldn't believe she was married and had children of her own.

Most of the expert witnesses gave the opinion that, during the relevant period, she was in a manic phase of her illness and did not appreciate what she was doing. The prosecution's expert, however, doubted that she could have been in a manic state for the entire time. When untreated, depressive episodes last about 6 to 9 months, while manic episodes tend to last about 4 months. It is quite possible for there to be times of normal behaviour in between the more extreme episodes. It is also possible for behaviour to become psychotic during both the manic and the depressive phases. In this case, Ms. Hood would have to have been in a manic phase from February to September of 2013. While it is possible to have an extended phase of either mania or depression, 10 months in manic phase is highly unusual.

At the end of the day, it was not the expert evidence that the judge relied on, but rather his assessment of the evidence of the people who knew her best, and the evidence revealed by the

texts and what she told her various doctors and family members at the time. Everyone who knew her well remarked on her changes in behaviour during the relevant time. Her family's evidence was strongly suggestive that she had no idea of what she was doing. Her husband (who was, as at the time of trial, her ex-husband), was not so certain of this. This could be explained as the natural vindictiveness of the man she cheated on, but it could also have had to do with the lies and half-truths Ms. Hood told him during the time when all of this was coming out. She didn't just confess everything, she confessed just enough to cover each situation as it came up.

## Facts

During the 2012-2013 academic year, Mr. Curtis was a member of the Ontario College of Teachers (the "College") and employed by the Avon-Maitland School Board (the "Board") as a teacher. Concerns regarding his competence and professionalism arose during that year and, after failing two consecutive performance appraisals, he retired from the Board.

## Cause of Action

Despite his retirement, the College chose to bring his conduct before a panel of the Discipline Committee, alleging both professional misconduct and incompetence.

## Decision

Curtis was found guilty of both misconduct and incompetence. The penalty imposed on him included a 3-month suspension of his Certificate of Qualification and Registration, with the imposition of a variety of terms and conditions before his Certificate could be reinstated. These conditions included enrolment in and successful completion of a course in Schedule B Additional Basic Qualifications in Transportation Technology and, to the extent that the

The texts were also highly suggestive that Ms. Hood knew she was doing wrong. Many of them included requests that the boys not tell anyone about them, delete them, and keep their activities with each other a secret. This is all consistent with knowledge that the behaviour described in the texts, as well as the texting itself, was wrong. Based on this, the Court concluded that Ms. Hood had been able to appreciate the nature of her actions during the relevant time, at least part of the time, and that therefore she was criminally responsible for her actions.

*R. v. Hood*, [2016] N.S.J. No. 116; 2016 NSPC 1

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## Discipline Justified

topics are not included in the curriculum of that course, a further course or courses in lesson planning, instructional strategies, classroom management, assessment of student learning and safety in the Transportation Technology classroom. The Member would also have to send the Discipline Committee's Decision, Reasons for Decision and Order to the course provider before enrolment, and to provide the College's registrar within 10 days of doing so with proof that these documents had been sent, then provide the Registrar with a written certificate of successful completion of the course or courses within 30 days of completion. The Member would also be required to advise the Registrar at least 30 days before returning to any teaching position, and provide the name of his employer and the nature of the employment. The Member would then be required to send copies of the Decision, Reasons and Order of the Discipline Committee to his employer before returning to a teaching position, and to send the Registrar proof that he had done so within 10 days. Further, the Member would be required to take all reasonable steps to get his employer to conduct a performance appraisal each year for the first two years, and provide copies of these appraisals to the Registrar within 30 days of their completion. If the em-

ployer proved unable or unwilling to do this, the Member was to immediately notify the Registrar. Finally, the Member's name, along with the findings and order of the Committee with respect to his professional misconduct only, would be published, in summary form, in the official publication of the College.

## Reasons

The allegations against Curtis were numerous. Essentially, the issues were that he failed to provide any direction or control in his classes, didn't have lesson plans or follow the curriculum, didn't tell students how they would be assessed, failed to provide evidence to support student grades, failed to teach the proper safety procedures to his students or to maintain safety standards in his class and failed to complete the Improvement Plans that were developed for him following his assessments.

Only one witness was called at the hearing, and that was Ms. Emma Bannerman, the principal of Curtis' school. Curtis himself, despite having been properly served with Notice of the Hearing, did not hire counsel and did not attend.

According to Ms. Bannerman, she first became aware of problems with Curtis shortly after becoming principal. There had been a number of complaints made against him by parents and students. She addressed this by meeting with him, along with other School and Board personnel, several times to discuss the issues. She checked on his classes almost every day from the spring of 2012 unto the winter of 2013 to ensure safety, and she provided him with numerous strategies to improve his performance.

Prior to the first formal performance review, Principal Bannerman met with Mr. Curtis to review the competencies he would need to demonstrate. To her surprise, he told her he did not have any of them, something no other teacher had ever told her. To help, she sent him a lesson plan template and scheduled the assessment to give him as much time as possible to develop his lesson plans before the evaluation.

Ms. Bannerman told the committee that, with respect to the first classroom observation, she had "never seen a classroom as out of control" in her life. She described students as swearing back and forth at each other, lying on top of desks, eating, listening to music and talking on their cell phones, and referring to the Member by his first name. She felt that "little to no learning occurred" during the class she observed.

There are five "domains" that are addressed in the performance review process. The first is "Commitment to Pupils and Pupil Learning." The Member's classroom was not conducive to learning. Curtis could not articulate the purpose of the work he was giving to the students, and it was clear that the students were not being taught the curriculum.

The second domain is "Professional Knowledge." The Committee found that although the Member had a great deal of knowledge in his subject area, he did not know the curriculum. He did not set any learning goals for the students, he had no classroom management skills or strategies and he didn't support student grades with demonstrable evidence.

The third domain is "Professional Practice." Curtis was unable to develop clear and achievable classroom goals and very little teaching, or learning, took place in his class. The Member did not develop clear and achievable classroom expectations with his students, due to the diverse range of student needs, and he did not communicate effectively with them, or often enough with their parents.

The fourth domain is "Leadership in Learning Communities." While Curtis was cooperative with his colleagues and with school administration, this "did not translate into an effective teaching practice in his classroom."

The fifth domain is "Ongoing Professional Learning." Despite participating

actively in staff meetings and professional development days, Curtis did not put what he learned in these sessions into practice in his classroom.

Obviously, Curtis' performance on the first evaluation was rated as unsatisfactory. He apparently told Principal Bannerman that this didn't surprise him. To help him, Ms. Bannerman developed an Improvement Plan with him that identified areas he needed to improve in before his second evaluations. She specifically noted four things for him to work on: 1) setting clear behaviour expectations for his class; 2) developing learning goals and success criteria for each unit; 3) identifying safety risks in his lesson plans; and 4) completing diagnostic and formative assessments before and during every unit of study. She also provided support in the form of recommending he attend a classroom management workshop, buying him a book on classroom management, working with him on lesson plans, offering him release time to work with a mentor, and outlining examples of success so that he could "gain a better sense of what a satisfactory teaching practice" looks like.

Curtis showed little to no improvement despite all this assistance. Months later, he still didn't know what a lesson plan was, he had only read two chapters of the book on classroom management, the students were still calling him by his first name and he didn't remember the 4 items he had been told to work on.

Curtis' second classroom observation was, according to the principal, even worse than his first. Several students were using their cell phones; one was watching a ball game on his device while others were playing music. Some students were swearing at each other, others were eating in class, and one was apparently lying on a desk doing leg exercises. The principal noted, at one point, that only one out of the sixteen students was actually working.

The principal developed a second improvement plan, even offering to run a



mock class so he could observe her teaching strategies directly. She went on to send him a letter advising he was on review, and set a date for his third assessment.

Following this, Mr. Curtis did not return to teaching at the school and Principal Bannerman told the Committee that she had not seen him since then.

The Committee accepted Ms. Bannerman's evidence, and found that Mr. Curtis had demonstrated professional misconduct in relation to his failures to teach or take steps to ensure any safety standards in his classroom, or to take any steps to improve his performance. Incompetence was demonstrated by his lack of knowledge of classroom management, lesson planning, or the curriculum.

As to the penalties imposed, these were proposed by Counsel for the College, and accepted by the Committee. In doing so, they noted that publication of Curtis' name in the College's official publication was appropriate, but only with regard to his professional misconduct. By doing this, the Committee was trying to underscore how seriously such breaches are taken. Further, publishing the Member's name acts as a general deterrent to the profession and reassures the public how seriously this sort of conduct is taken.

*Ontario College of Teachers v. Curtis*, 2015 LNONCTD 88

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**ADMINISTRATORS and THE LAW**

# Temporary Appointments Take Teachers Outside Bargaining Unit

## Facts

British Columbia's School District No 42 has a long-standing practice of giving teachers administrative experience by providing them with temporary appointments as acting vice-principals or education directors. Historically, while such an appointment is in effect, the teacher is placed on a leave of absence and her teaching position is filled by someone on a temporary basis. That leaves the position available for the teacher-turned-administrator to return to.

The Union disagreed with this approach and brought a grievance. At the arbitration, the arbitrator found that once a teacher accepts a temporary appointment as an Administrative Officer ("AO"), that teacher is no longer a member of the bargaining unit, and is therefore not entitled to be placed on a leave of absence under the collective agreement. The vacated teaching position therefore, should not be considered temporary.

## Cause of Action

The Employers appealed the arbitrator's conclusions to the Labour Relations Board.

## Decision

The appeal was dismissed and the matter returned to arbitration to consider a separate issue.

## Reasons

This case involved the interplay of a number of different provisions from the bargaining unit's collective agreement, the *School Act* and the *Labour Relations Act* of British Columbia. To give a brief history, prior to 1987 teachers in that province were not governed by the Labour Code. Learning and working conditions contracts were negotiated between individual school boards and local teachers' associations. Both principals and vice-principals were classified as teachers, they were just dealt with as being assigned to administrative duties. Within this setting, there was no problem moving individuals back and forth from teaching to administrative positions.

In 1987, however, changes to labour legislation and the *School Act*, along with the introduction of a new *Teaching Profession Act*, changed things significantly. Primarily, teachers were given the right to collective bargaining under the *Industrial Relations Act* ("IRA"). Principals

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and vice-principals were now called “Administrative Officers” (“AOs”) and no longer considered “teachers” under the *School Act* or the *Teaching Profession Act*. They were expressly excluded from the definition of “employee” under the IRA and could not be members of any bargaining unit for which a trade union had been certified.

In this context, moving from a teaching position to an administrative position, even temporarily, caused a status change for that individual. The new AO is not a teacher, doesn’t belong to the teachers’ bargaining unit for that school district, and is not covered by the collective agreement in force in that school district.

### Standard of Review

The Board noted that as the review “required an assessment of the interpretation of Section 20(2) the standard is correctness.”

### Application of the Standard

The Board found that the Arbitrator had correctly interpreted s. 20(2) of the *School Act*. Sections 20 and 21 of the *School Act* say:

Principal, vice principal and director of instruction

20(1) A board may appoint a person as a principal, vice principal or director of instruction to perform the duties and have the powers set out in the regulations.

(2) A principal, vice principal or director of instruction is not an employee

within the meaning of the *Labour Relations Code*.

(3) A principal, vice principal or director of instruction who is responsible for evaluating a teacher in a specialized assignment may

(a) consult with a resource person who has relevant specialized technical knowledge, and

(b) use information obtained from the consultation in the evaluation.

Offer of teaching position and seniority

21(1) When a board of a school district

(a) does not intend to renew the contract of a principal, vice principal or director of instruction in the school district, or

(b) intends to dismiss a principal, vice principal or director of instruction other than for cause,

the board must offer the principal, vice principal or director of instruction a teaching position in the school district before the expiry of the contract or the effective date of the dismissal.

(2) If a person is appointed as a principal, vice principal or director of instruction in a school district and is subsequently offered a teaching position in that school district, he or she is, for the purposes of seniority only, deemed to have been a teacher in that school district both

during the period that he or she was employed as a principal, vice principal or director of instruction and during the period that he or she was employed as a teacher in that school district.

Together, these provisions allow for the temporary appointment of teachers as AOs, and even protect their seniority and employment for when the appointment is over, but do NOT ensure the teacher is guaranteed a return to their pre-appointment continuing post. The Union took the position that leaves of absence are rights conferred under the collective agreement, and the temporary AOs were not subject to the collective agreement, and as such not entitled to its benefits. Having ceased to be teachers, even temporarily, the post vacated by the teacher-turned-AO should not be advertised as temporary but, rather, as a regular position. The Arbitrator had agreed with this, and the Board could not find that he was incorrect in having done so.

Underlying all of this is the simple fact that the situation could be dealt with easily by incorporating provisions allowing the board to guarantee a return to a teacher’s pre-appointment post to temporarily appointed AOs into the collective agreement.

Board of School Trustees of School District No. 42 (Maple Ridge-Pitt Meadows) (Re), [2016] B.C.L.R.B.D. No. 45; BCLRB No. B45/2016

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