

AGREED TO JUNE 1, 2018

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF THE PROVINCE OF BRITISH COLUMBIA
AS REPRESENTED BY THE
BC PUBLIC SERVICE AGENCY
AND THE
BC GOVERNMENT AND SERVICE EMPLOYEES' UNION
REGARDING

EXPEDITED ARBITRATION PROCEDURE**

The Master Agreement between these parties provides as follows:

9.9 Expedited Arbitration

The parties shall meet every four-months during the term of the ~~17th Master~~ **18th Main** Agreement or as often as required to review outstanding grievances filed at arbitration to determine by mutual agreement those grievances suitable for this process, and shall set dates and locations for hearings of groups of grievances considered suitable for expedited arbitration.

Therefore, the parties hereby agree to the following procedure:

1. In February/March, June and September, or other mutually agreed date, the parties will convene a Case Management Meeting to review grievances arising throughout the province, scheduled in advance as follows:

February/March:

Vancouver Island – Victoria (1 Day)

Lower Mainland/Fraser Valley/Southern Interior/North – Burnaby Vancouver (3 Days)

Southern Interior/North – 1 Day

June:

Vancouver Island – Victoria (1 Day)

Lower Mainland/Fraser Valley/Southern Interior/North – Burnaby Vancouver (3 Days)

Southern Interior/North – 1 Day

September:

Vancouver Island – Victoria (1 Day)
Lower Mainland/Fraser Valley/Southern Interior/North – Burnaby Vancouver (3 Days)
Southern Interior/North – 1 Day

In addition, the parties will add extra days as follows:

April: All Regions – LDB – Burnaby (1 day)

November/December – LDB – Burnaby (1 day)

Additional dates may be scheduled as needed by mutual agreement.

The parties agree that there is mutual benefit for Regional Coordinators/Director of Labour Relations, union and employer representatives to attend in person. Where it is not practical for representatives to attend in person, they will advise their counterparts and they may attend via
~~Grievances arising in the Southern Interior and the North may be dealt with by telephone or video conference call.~~

2. Definitions:

“Master List” means the inventory of grievances in the expedited arbitration process that have not been settled, withdrawn, granted or removed to formal arbitration.

“Short List” means those grievances that the parties intend to address at the next Case Management Meeting.

“Codes” will include the following:

- “ANR” – Adjourned to Next Round
- “APF” – Abeyance Pending Formal Award
- “SIP” – Settlement Implementation Pending
- “SL” – Short List

- “STO” – Settlement Talks Ongoing

No later than ~~six~~ **eight** weeks prior to each Case Management Meeting, the BCGEU Case Managers/Regional Coordinators will code the Master List and provide the BCPSA with a **vett**~~ed~~ Short List for their region. **No other cases may be added to the Short List, except by mutual agreement.**

The Short List will include the following information:

- The name and work location of the grievor (or each grievor for *et al* grievances)
- The reference number assigned by the arbitration registrar for each grievance
- The name of the ministry
- The Master or Component Agreement clause on which the grievance primarily rests
- The name of the BCGEU Staff Representative / BCPSA Officer assigned conduct of each grievance

3. **No later than three weeks prior to each Case Management Meeting, the union representative and the PSA representative will discuss each case on the Short List.** The party who bears the onus will provide the other party with a Case Summary at the Case Management meeting. The Case Summary will include the following (if practical/applicable in the circumstances):

- The alleged breach of the collective agreement
- The specific remedy sought
- A draft statement of agreed facts
- The names of potential witnesses and the nature of their testimony
- Documents of reliance
- Authorities
- Notification of any preliminary matters

Notwithstanding that the Case Summary is prepared by the party with the onus, the parties recognize that disclosure of relevant or potentially relevant documents is a mutual and ongoing obligation.

4. The objectives at the Case Management Meeting are as follows:

- The parties will review the Case Summary, hear each side's views on the merits of the grievance, and attempt to resolve the matter, whether by settling, withdrawing, or granting the grievance. Grievances not suitable for expedited arbitration may also be identified at this stage.
- If the parties are unable to resolve the matter because of a lack of information, the Case Managers may specify disclosure or other requirements to be met and expectations regarding further discussions.
- If the parties are unable to resolve the grievance and it appears destined for arbitration, the Case Managers may assist counsel to narrow the issues in dispute and address the need, if any, to call witnesses.
- For grievances that appear destined for arbitration, the parties will discuss witness

availability, scheduling preferences and the anticipated length of the hearing.

- For grievances that appear destined for arbitration, the Case Managers will determine if both parties are sufficiently prepared to allow the matter to be scheduled. The Case Managers will either refer such grievances for scheduling, or specify disclosure or other requirements to be met before the grievance may be scheduled.

5. Hearing dates will be scheduled in advance each fall for the following year to appropriately coincide with Case Management Meeting (six weeks following) scheduled as follows:

Lower Mainland	5 times per year x 1 day
Vancouver Island	3 times per year x 1 day
Southern Interior	2 times per year x 1 day
North	2 times per year x 1 day

6. Arbitrators:

Lower Mainland	Vince Ready (Chris Sullivan when Ready unavailable)
Vancouver Island	Judi Korbin (Chris Sullivan Marli Rusen when Korbin unavailable)
Southern Interior	Chris Sullivan/Robert Pekeles (alternating)
The North	Robert Pekeles

7. The Case Managers will **prioritize** and place grievances identified at the Case Management Meeting into available arbitration slots or approve independent scheduling of additional hearing days as the circumstances require.

8. The union representative and the PSA representative will ensure that they adhere to the commitments made within the Case Management discussions.

9. Late disclosure of documents that had been requested in a timely manner will result, unless mutually agreed otherwise, in the grievance being removed from the current expedited arbitration hearing list and set for a future expedited hearing list. Only the affected party may trigger the postponement.

10. Once a grievance is scheduled for arbitration, an adjournment may only be granted with the consent of the Case Managers.

11. Any dispute as to the locale for a hearing, length of hearing, consent for adjournments or other preliminary matters will be resolved by a conference call with the arbitrator.

12. Where a grievance is filed at expedited arbitration and concerns a dispute where the remedy requested would be moot due to the passage of time or where the Case Managers agree that a

matter is urgent, they may agree to further expedite a hearing of the grievance by:

- relaxing or waiving the time frames outlined above; and/or
- reassigning the grievance to be heard to another scheduled expedited hearing date in another location; or
- utilizing potentially unused days from existing scheduled expedited hearing dates; or
- scheduling special expedited hearing dates.

13. All grievances related to employee status and contracting out are deemed appropriate for expedited arbitration. However, shall either Party wish a matter to proceed to a full hearing it must first be discussed at an expedited case management meeting. Both Parties will cooperate in completing the attached Contracted Service Checklist/Questionnaire prior to a decision being made to pull the grievance to full hearing.

14. To reduce costs, the parties will endeavour to utilize BCGEU and BCPSA meeting rooms or other similar facilities for Case Management Meetings and arbitration hearings.

15. The parties agree that where circumstances warrant, the attached 'action form' will be completed for files discussed at case management.

Signed on behalf of the BCPSA:

Signed on behalf of the BCGEU:

Date: _____

Date: _____

GUIDELINES for EXPEDITED ARBITRATION HEARINGS

GUIDELINES FOR COUNSEL

1. As part of the Case Management process prior to arbitration, counsel are expected to discuss areas of agreement, including facts and documents. In appropriate cases, this process shall lead to a joint statement of agreed facts and/or a joint brief of relevant documents (grievance correspondence is neither relevant, nor permissible).
2. Each party is expected to make a comprehensive, yet brief, opening statement. Under no circumstances should counsel make a statement that is not supported by the evidence. Preferably, these statements will be in writing, with copies for the arbitrator and opposing counsel.
3. Rebuttal, if necessary, should be limited to any facts in dispute and any additional facts that are relevant.
4. Counsel should assume the arbitrator is familiar with commonly-used case authorities (*William Scott, KVP*, etc.). Excessive reference to case authorities or *Brown & Beatty* is not encouraged. If possible, authorities should be provided to opposing counsel as part of the Case Management process.

GUIDELINES FOR ARBITRATORS

1. The hearing should be conducted in an informal manner with limited objections by the parties.
2. Hearsay evidence will be allowed without objection from opposing counsel and given the appropriate weight by the arbitrator. However, counsel are permitted to draw the arbitrator's attention to hearsay evidence as it arises.
3. Notwithstanding that the parties should have narrowed the issues in dispute during the Case Management process, the arbitrator may determine the extent of evidence required from witnesses. If testimony strays from the issues in dispute, the arbitrator is expected to assist counsel in focusing the scope of testimony and generally expediting the proceeding.
4. The arbitrator will provide the parties with a written award. The award will normally not exceed one or two pages in length.
5. While recognizing there may be occasions when it is necessary to deviate from these guidelines, the parties expect the arbitrator to make every effort to ensure they are followed.