



AJC-AJJ

ASSOCIATION OF JUSTICE COUNSEL
ASSOCIATION DES JURISTES DE JUSTICE

LIST OF BARGAINING PROPOSALS PRESENTED TO TREASURY BOARD

November 23, 2018

Association of Justice Counsel

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PROPOSAL 1 – PAY

The Association will be making proposals for compensation increases for its members.

The parties have agreed to move quickly to begin a joint pay study, so they can bargain compensation in the context of a neutral review of practices in comparable jurisdictions. It is the hope that the joint pay study can be ready in time for this discussion.

If it is not possible to receive the joint pay study within a reasonable time, it may be necessary to address compensation issues in other ways.

For this reason, the Association will wait before proposing specific adjustments, increases and changes to the wage progression model.

PROPOSAL 2 - AUTOMATIC PROGRESSION

A lawyer at the LP1 or LP2 level who reaches the top of the salary scale for their classification level shall, on their anniversary date, in lieu of performance pay, be automatically promoted to the next classification level at the salary level equivalent to their salary plus performance pay.

PROPOSAL 3 - STRENGTHENING FLEXIBLE SCHEDULING - Article 13

Merge Article 13.01 with Article 13.02, as they are duplicitous, by deleting Article 13.01 and modifying Article 13.02 as follows:

13.02 The following applies to all lawyers at the ~~LP-03 and LP-04 and LP-05 levels. Effective April 1, 2013, paragraphs (i), (j) and (k) will apply to all lawyers.~~

a. The normal hours of work for lawyers shall average thirty-seven decimal five (37.5) hours per week over each four (4) week period. Subject to the approval of the Employer, the hours of work shall be arranged to suit a lawyer's individual duties and to permit the lawyer to carry out his or her professional responsibilities.

b. In making arrangements for hours of work, lawyers will be permitted reasonable flexibility in the times during which they perform their work, including arrival and departure from the workplace, to enable them to balance work and family responsibilities. In particular, lawyers who are required to work outside conventional office hours, or on what would normally be a day of rest shall be permitted to shift their work hours or work days, subject to operational requirements.

c. The normal workweek shall be Monday through Friday, except where a lawyer is required to work on what would normally be a day of rest or a paid holiday in order to carry out his or her professional responsibilities. For greater certainty, lawyers required to work on a designated paid holiday shall be entitled to substitute a day of rest that would ordinarily be a working day and for which the lawyer shall be paid 7.5 hours pay at the straight time rate for the designated paid holiday.

Failure to provide the lawyer with a substituted day of rest within the same calendar week shall require the Employer to grant the employee compensatory leave equal to 1.5 hours of leave for each hour worked on that day.

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PROPOSAL 4 - WORKLOAD AND COMPENSATORY LEAVE – Article 13.02(i), (j) and (k)

Replace paragraph (i) with the following paragraph (k):

- i k) A lawyer who works:
 - i. 170 hours or more in a four (4) week period shall be entitled to 7.5 hours of compensatory leave with pay for that period;
 - ii. 187 hours or more in a four (4) week period shall be entitled to 15 hours of compensatory leave with pay for that period;
 - iii. 200 hours in a four (4) week period shall be entitled to 22.5 hours of compensatory leave with pay for that period;
 - iv. in excess of 200 hours in a four (4) week period shall be entitled to 1 hour of compensatory leave with pay for any additional 1.5 hour of work that exceeds the 200 hours for that period in addition to the compensatory leave in paragraph (iii) above;
 - v. 100 hours or more above the total normal hours of work in a fiscal year, considering all days worked by that lawyer but excluding any four (4) week periods for which the lawyer is entitled to compensatory leave under subparagraphs (i) to (iv) above, shall be entitled to 7.5 hours of compensatory leave with pay for that fiscal year;
 - vi. 200 hours or more above the total normal hours of work in a fiscal year, considering all days worked by that lawyer but excluding any four (4) week periods for which the lawyer is entitled to compensatory leave under subparagraphs (i) to (iv) above, shall be entitled to 15 hours of compensatory leave with pay for that fiscal year; and
 - vii. 300 hours or more above the total normal hours of work in a fiscal year, considering all days worked by that lawyer but excluding any four (4) week periods for which the lawyer is entitled to compensatory leave under subparagraphs (i) to (iv) above, shall be entitled to 22.5 hours of compensatory leave with pay for that fiscal year.
- j l) Under exceptional circumstances, the ~~deputy head~~ delegated manager may approve management compensatory leave with pay for a

period ~~exceeding the five (5) days~~ in excess of the compensatory leave referred to above.

k m) Management Compensatory leave with pay granted under (i-k) and/or (j l) above can be carried over into the next fiscal year, and is to be used ~~within six (6) months of being granted~~ by the end of that fiscal year.

† n) Lawyers will submit such attendance and timekeeping reports as may be required by the Employer for the purpose of this article.

PROPOSAL 5 - STANDBY and CALLBACK LEAVE - Article 13.01 and 13.02(d)-(h)

Merge Article 13.01 with Article 13.02, as they are duplicitous, by deleting Article 13.01 and modifying Article 13.02 as follows:

Article 13.02

...

13.02 d. Where the Employer requires a lawyer to be available in standby during off duty, the lawyer shall be compensated at the rate of ~~one-half~~ (1/2) one (1) hour leave with pay for each four (4) hour period or part thereof for which the lawyer is required to be on standby duty.

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e. A lawyer required by the employer to be on standby duty shall be available during his or her period of standby at a known telephone number and be available to return for duty as quickly as possible if called.

**

f. In requiring lawyers for standby, the Employer will endeavour to provide for the equitable distribution of standby duties.

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g. No standby compensation leave shall be granted if a lawyer is unable to report for duty when required.

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h. Where a lawyer is on standby duty and is called back one or more times during any given week, the employee will receive, in addition to the leave in paragraph (a) above, the greater of the number of hours actually worked on callback, or, four (4) hours of leave.

i. This leave does not count towards the number of days that a manager may approve prior to requiring Deputy Head approval. The combination of this leave and other management leave provided in accordance with the calculations above which may exceed a total of five (5) days in any given fiscal year is deemed to have been approved by the deputy heads.

j. The employer recognizes that employees may, at times, be required by management to work both excessive hours on departmental priorities as well as to be on standby duty which could result in being called back. The Employer is committed to reviewing these situations and ensuring that access to management leave beyond five (5) days in recognition of excessive hours of work is not negatively affected by the granting of management leave. Nothing in this article is intended to prevent lawyers from having access to the Employer's existing policies respecting alternate work arrangements, including compressed workweek, job sharing, telework, self-funded leave and pre-retirement transition leave.

PROPOSAL 6 - MATERNITY AND PARENTAL LEAVE TOP-UP - Article 19.03, 19.04 and 19.05

The Association is proposing to change the maternity and parental leave top-up provisions of the collective agreement in a manner that will closely resemble the demands being made by the Public Service Alliance of Canada at their common issues table in the current round of bargaining.

The language in the Associations' collective agreement will require adjustments given the differences in the language in the various collective agreements and will be provided during the course of bargaining.

PROPOSAL 7 - CASHOUT OF UNUSED VACATION LEAVE - Article 17.08

17.08 Carry-over and liquidation of vacation leave

a. Where in any vacation year, a lawyer has not been granted all of the vacation leave credited to him or her, the unused portion of his or her vacation leave credits up to a maximum of two hundred and sixty-two decimal five (262.5) hours shall be carried over into the following vacation year. At the request of the employee, all vacation leave credits in excess of two hundred and sixty-two decimal five (262.5) hours shall be automatically paid in cash at the lawyer's daily rate of pay as calculated from the classification prescribed in the certificate of appointment of the lawyer's substantive position on the last day of the vacation year.

~~b. Notwithstanding paragraph (a), if on the date of signing of this agreement or on the date a lawyer becomes subject to this agreement, a lawyer has more than two hundred and sixty-two decimal five (262.5) hours of unused vacation leave credits earned during previous years, a minimum of seventy-five (75) hours credit per year shall be granted, or paid in cash by March 31 of each year, until all vacation leave credits in excess of two hundred and sixty-two decimal five (262.5) hours have been liquidated. Payment shall be in one (1) instalment per year, and shall be at the lawyer's daily rate of pay as calculated from the classification prescribed in the certificate of appointment of the lawyer's substantive position on March 31 of the applicable previous vacation year.~~

~~17.09 Immediately following March 31, upon application by the lawyer and at the discretion of the Employer, vacation leave credits in excess of one hundred and twelve decimal five (112.5) hours may be paid in cash at the lawyer's daily rate of pay as calculated from the classification prescribed in the lawyer's certificate of appointment of his substantive position on March 31.~~

PROPOSAL 8 - UNION LEAVE REIMBURSEMENT – Article 11

11.01 Federal Public Sector Labour Relations and Employment Board hearings

1. Complaints made to the Federal Public Sector Labour Relations and Employment Board pursuant to Section 190(1) of the Federal Public Sector Labour Relations Act

Where operational requirements permit, in cases of complaints made to the Federal Public Sector Labour Relations and Employment Board pursuant to section 190(1) of the Federal Public Sector Labour Relations Act (FPSLRA) alleging a breach of sections 157, 186(1)(a), 186(1)(b), 186(2)(a)(i), 186(2)(b), 187, 188(a) or 189(1) of the FPSLRA, the Employer will grant leave with pay:

- a. to a lawyer who makes a complaint on his own behalf before the Federal Public Sector Labour Relations and Employment Board, and
- b. to ~~the~~ a lawyer who acts on behalf of a lawyer making a complaint, or who acts on behalf of the Association making a complaint.

2. Applications for certification, representations and interventions with respect to applications for certification

~~Where operational requirements permit,~~ the Employer will grant leave without pay:

- a. to a lawyer who represents the Association in an application for certification or in an intervention, and
- b. to a lawyer who makes personal representations with respect to a certification.

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11.03 Adjudication

1. Lawyer who is a party

Where operational requirements permit, the Employer will grant leave with pay to a lawyer who is a party to an adjudication.

2. Lawyer who acts as representative

Where operational requirements permit, the Employer will grant leave with pay to the representative of a lawyer who is a party to an adjudication.

3. Lawyer called as a witness

Where operational requirements permit, the Employer will grant leave with pay to a witness called by a lawyer who is a party to an adjudication.

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11.05 Contract negotiations meetings

~~Where operational requirements permit, the Employer will grant leave without pay to a lawyer for the purpose of attending to attend contract negotiations meetings on behalf of the Association. (Arbitral award dated October 23, 2009, provision effective November 1, 2009)~~

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11.10 Reimbursement for leave without pay

Leave without pay granted to a lawyer under Clauses 11.01(2), 11.05, 11.06, 11.08 and 11.09(1) will be with pay, and the Association will reimburse the Employer for the salary and benefit costs of the lawyer during the period of approved leave with pay according to the terms established by joint agreement.

APPENDIX E

Memorandum of Agreement with Respect to Implementation of Union Leave

This memorandum is to give effect to an agreement reached between the Employer and the Association of Justice Counsel (the “Association”) to implement a system of cost recovery for leave for union business.

The elements of the new system are as follows:

- Recoverable paid leave for union business for periods of up to three (3) months of continuous leave per year;
- Cost recovery will be based on actual salary costs during the leave period, to which a percentage of salary, agreed to by the parties, will be added; and
- The Employer will pay for all administration costs associated with the operation of this system.

The surcharge will be based on average expected costs incurred by the Employer for payroll taxes, pensions and supplementary benefits during the operation of the program as described above, calculated according to generally accepted practices.

Notwithstanding anything else in this agreement, and as an overarching principle, it will not include costs for benefits that would otherwise be paid by the Employer during an equivalent period of leave without pay. The consequences of the implementation of Clause 11.10 will be cost neutral for the Employer in terms of compensation costs, and will confer neither a substantial financial benefit, nor a substantially increased cost, on the Employer.

A joint committee consisting of an equal number of Association and Employer representatives will be struck to resolve matters related to the implementation this new program, including, but not limited to, invoices, accounting and the manner of the transaction.

The Joint Committee’s principal work will relate to:

- Determining an appropriate surcharge in recognition of the considerations identified in this document;
- Establishing processes and the Employer’s reporting requirements; and
- Other considerations associated with implementation.

If agreement cannot be reached on recovering costs against union remittances, the Joint Committee will consider alternate means of cost recovery.

The Joint Committee will be struck and convened by _____, and will complete its work by _____, with implementation to be completed by the earliest feasible date as determined by the committee.

In the event that the parties do not reach an agreement, the parties may seek the services of a mediator. Necessary consequential changes will be made to Article 11, effective _____.

The deadline for completion of work and implementation of this system may be extended by mutual consent of both parties to this agreement.

PROPOSAL 9 – BEREAVEMENT LEAVE – Article 19.02

19.02 Bereavement leave with pay

For the purpose of this clause, family is defined as the father, mother, child (or alternatively stepparent, foster parent, stepchild or ward) of the lawyer or the lawyer's spouse (including common-law partner), brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, spouse (including common-law partner), fiancé/fiancée, grandchild of the lawyer or the lawyer's spouse (including common-law partner), ~~the lawyer's grandparent~~, grandparent of the lawyer or the lawyer's spouse (including common law partner), or any other person permanently residing in the lawyer's household or with whom the lawyer permanently resides.

- a. When a member of the lawyer's family dies, a lawyer
 - i. shall be entitled to a bereavement period of seven (7) consecutive calendar days which must include the day of the funeral, memorial or service commemorating the deceased, or must begin within two (2) days following the death. During such period the lawyer shall be paid for those days which are not regularly scheduled days of rest for that lawyer.
 - ii. In addition, the lawyer may be granted up to three (3) days' leave with pay for the purpose of travel related to the death.
- b. At the request of the lawyer, such bereavement leave with pay may be taken in a single period of seven (7) consecutive calendar days or may be taken in two (2) periods to a maximum of five (5) working days.
- c. When requested to be taken in two (2) periods,
 - i. the first period must include the day of the funeral, memorial or service commemorating the deceased, or must begin within two (2) days following the death, and
 - ii. the second period must be taken no later than twelve (12) months from the date of death for the purpose of attending a ceremony related to the death.

- iii. In addition, the lawyer may be granted no more than three (3) days' leave with pay, in total, for the purpose of travel related to the death for these two (2) periods.

d. If, during a period of any authorized leave with pay, a lawyer is bereaved in circumstances under which the lawyer would have been eligible for bereavement leave with pay under clause 19.02, the lawyer shall be granted bereavement leave with pay and the lawyer's paid leave credits shall be restored to the extent of any concurrent bereavement leave with pay granted.

b e. It is recognized by the parties that the circumstances which call for leave in respect of bereavement are based on individual circumstances. On request, the deputy head of a department may, after considering the particular circumstances involved, grant leave with pay for a period greater and/or in a manner different than that provided for in clause 19.02(a).

f. Clause 19.02 shall apply in the case of miscarriage or still-born child.

g. A lawyer is entitled to leave with pay to attend, including travel to and from, the funeral, memorial or service commemorating the deceased, of a colleague or co-worker at the lawyer's department or agency.

h. Upon request of a lawyer, the lawyer shall be entitled to twenty-two decimal five (22.5) hours leave with pay to execute the duties of the administrator or executor of a deceased family member's estate and/or will.

PROPOSAL 10 – FAMILY-RELATED LEAVE - Article 19.13

19.13 Leave with pay for family-related responsibilities

a. For the purpose of this clause, family is defined as spouse (or common-law partner ~~resident with the lawyer~~), children (including foster children, children of legal spouse or common-law partner), parents (including step-parents or foster parents), father-in-law, mother-in-law, brother, sister, step-brother, step-sister, brother-in-law, sister-in-law, grandparents of the lawyer, grandchild, any relative person permanently residing in the lawyer's household or with whom the employee lawyer permanently resides or any relative other person for whom the lawyer has duty of care, irrespective of whether they reside with the employee lawyer.

b. The Employer shall grant leave with pay under the following circumstances:

- i. a lawyer is expected to make every reasonable effort to schedule medical or dental appointments for family members to minimize or preclude his absence from work; however, when alternate arrangements are not possible a lawyer shall be granted leave up to one (1) day for a medical or dental appointment when the family member is incapable of attending the appointment by himself, or for appointments with appropriate authorities in schools or adoption agencies. A lawyer requesting leave under this provision must notify his supervisor of the appointment as far in advance as possible;
- ii. ~~leave with pay~~ to provide for the immediate and temporary care of a sick or elderly member of the lawyer's family and to provide a lawyer with time to make alternate care arrangements where the illness, injury or disability is of a longer duration;
- iii. ~~leave with pay~~ to provide for needs directly related to the birth or to the adoption of the lawyer's child;

c. ~~The total leave with pay which may be granted under subparagraph (b)(i), (ii) and (iii) shall not exceed thirty seven decimal five (37.5) hours in a fiscal year. Seven decimal five (7.5) hours out of the thirty seven decimal~~

five (37.5) hours stipulated may be used:

- iv. to attend school functions, if the supervisor was notified of the functions as far in advance as possible;
 - v. to provide for the employee's child in the case of an unforeseeable closure of the school or daycare facility immediate and temporary care of a child where, due to unforeseen circumstances, usual child-care arrangements are unavailable. This also applies to unexpected school closures for children aged fourteen (14) and under, or to children over the age of fourteen (14) who have special needs;
 - vi. to provide time for the lawyer to make alternative arrangements in the event of fire or flooding at the lawyer's residence;
 - vii. seven decimal five (7.5) hours out of the fifty-two decimal five (52.5) hours stipulated in paragraph (c) may be used to attend an appointment with a legal or paralegal representative for non-employment related matters, or with a financial or other professional representative, if the supervisor was notified of the appointment as far in advance as possible.
- c. The total leave with pay that may be granted under paragraph (b) shall not exceed fifty-two decimal five (52.5) hours in a fiscal year.
- d. An additional thirty-seven decimal five (37.5) hours of leave with pay shall be granted to a lawyer for needs directly related to the birth or to the adoption of the lawyer's child.

PROPOSAL 11 – DESIGNATED PAID HOLIDAYS - Article 16.01

16.01 Subject to clause 16.02, the following days shall be designated paid holidays for lawyers:

- a. New Year's Day,
- b. Good Friday,
- c. Easter Monday,
- d. the day fixed by proclamation of the Governor in Council for celebration of the Sovereign's birthday,
- e. Canada Day,
- f. Labour Day,

- g. the day fixed by proclamation of the Governor in Council as a general day of Thanksgiving,
- h. Remembrance Day,
- i. Christmas Day,
- j. Boxing Day,
- k. ~~one (1)~~ two (2) additional days in each year that, in the opinion of the Employer, ~~is~~ are recognized to be a provincial or civic holiday in the area in which the lawyer is employed or in any area where, in the opinion of the Employer, no such days ~~is~~ are recognized as a provincial or civic holiday, the third Monday in February and the first Monday in August, and
- l. one (1) additional day when proclaimed by an act of Parliament as a national holiday.

PROPOSAL 12 – PAY ADMINISTRATION

The Association wishes to discuss compensation accorded to members following a failure of the Employer to pay lawyers the salary and benefits they are owed under the collective agreement correctly and on time.

PROPOSAL 13 – Further Proposals

The Association and the Employer have agreed to table a full list of their proposals at this time.

As noted above, it will be necessary to table additional proposals once the outcome of the discussions on the joint pay study are known, or in the event that the results are not reasonably available for the purposes of this round of bargaining.

In addition, other bargaining agents have made a variety of demands in their current rounds of bargaining. The Association reserves the right to make a demand that includes terms and conditions of employment accorded to other bargaining agents.

Finally, given the duration of these rounds of bargaining, the Association reserves the right to add to or modify its demands in the context of any material change in the circumstances related to the employment of its members.

PROPOSAL 14 - TERM

The Association of Justice Counsel observes that other bargaining units have proposed a 3-year term. The Association is willing to negotiate the term depending on the nature of the agreement the parties are able to reach.