

ACL COORDINATED BARGAINING KIT 2009

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INTRODUCTION

The past year and a half has been an exciting period in the evolution of the ACL *We Make It Possible* Campaign adopted by CUPE's developmental services sector in Ontario. We have made significant gains at the bargaining table. Our campaign lobby efforts and work with parents and employers resulted in the infusion of \$200 million new dollars to the sector over four years.

Over the past several months, new challenges have emerged that will further complicate the overall context in which we bargain. The passage into law of Bill 77, *the Services for Persons with Disabilities Act 2008*, means that both direct funding and wait lists are now entrenched in legislation. The expansion of direct funding to families of persons with developmental disabilities means that our collective agreements will be increasingly under attack as employers seek to attain "flexibility" in service provision. We have to ensure the work of the bargaining unit and our terms and conditions of employment are protected.

The provincial government's focus on the entrenchment of wait lists and the expansion of direct funding in legislation, rather than ensuring adequate funding to the existing agency structure, will create further stress on an already strained system. The ministry has now launched the *Increasing Community Capacity* (ICC) initiative which requires agencies to provide more service in order to move a greater number of individuals off wait lists without any additional funding being allocated to do so. In fact, the ministry is also requiring agencies to find savings out of administrative budget lines.

We have also learned that the Ministry will reduce agency budgets in the event agencies refuse to find cost savings and meet targeted new space requirements. This strategy will force agencies and workers to do more with less funding. Please contact your ACL bargaining committee representative to provide information and updates regarding the impact of the ICC initiative in your workplace.

The ministry has launched several committees to develop a human resources strategy for the developmental services sector. The work to develop this strategy is being done in committees which are comprised of employer representatives. Each panel/committee is co-chaired by a ministry representative and executive director of a community living agency. Our understanding is that the one exception is the "Panel on Support Staff Hired Directly by Families" which has family and ministry representatives but no agency representatives.

The position of CUPE and OPSEU is clear – as the bargaining agents for the majority (over 65%) of the workers in the sector there must be a mechanism for labour involvement in any human resources strategy. It was recently confirmed that a joint employer/labour provincial committee will be struck to explore Human Resource strategy issues. This committee is NOT a bargaining forum. The anticipated scope of the committee will be recruitment, retention and viability of the workforce. Interestingly, we were also told that the Ministry/Employer committee entitled "Compensation tied to Core Competences" has been disbanded.

One of the items we have identified for discussion at the joint Human Resource strategy committee is the apprenticeship program. If your local is approached by the employer regarding the apprenticeship program, please gather any information available and forward it to Kathy Johnson at kjohnson@cupe.ca. Please do not sign off on any agreements related to apprenticeship programs.

Undoubtedly, the downturn in the global economy will have an impact on the upcoming round of coordinated bargaining. Economic uncertainty typically leads to government restraint in spending and that includes restraint in government funding for general wage increases. The Government of Ontario's Fall 2008 Economic Statement made it clear that the province wants more modest collective agreement settlements for its own employees and in the organizations it funds, and that includes developmental services agencies.

In tough economic times governments should not be rolling back public services. Rather, governments must continue their investments in public services by investing in the wages of the people that provide those services. By doing so, governments would be acting to ensure consistency in service delivery through the retention and recruitment of a qualified workforce.

ACTION ITEM:

The ACL bargaining committee encourages all locals to conduct an audit to determine if the wage gap monies flowed to local wage grids in the appropriate amounts. As part of your bargaining preparation, compare your expired and current wage grids to determine if there's any shortfall in wage gap funding that needs to be addressed during the upcoming round of bargaining. **Also, if your wage grid has been updated and is NOT in your current agreement, please provide to Coordinator Kathy Johnson (kjohnson@cupe.ca) and Researcher Joe Courtney (jcourtney@cupe.ca) as quickly as possible. As we head into the 2009 round of coordinated bargaining, with 55 units at the table, it is critical that we have access to all current agreements and wage grid information.**

Organization of the Bargaining Kit

The 2009 ACL bargaining kit contains both **Core and Recommended Proposals** as adopted at the fall 2008 ACL Leadership Meeting. It is instructive to view this bargaining kit as a tool to use as your local heads into bargaining; it should also be used as a reference while at the bargaining table. The Core Proposals will be tightly coordinated and will be subject to the coordinated bargaining communication and decision making process. **Participating locals are to include ALL of the Core Proposals in their local's bargaining package.**

The 8 Core Proposals include:

1. Benefit Disclosure
2. Letter of Understanding, re. employer lobby and central bargaining forum
3. Letter of Understanding, re. additional funding
4. Common expiry date
5. Wages (flat rate)
6. Pensions (MSPP)
7. Workplace violence
8. Work of the bargaining unit (restrictions on contracting out and direct funding arrangements)

In addition to the 8 Core Proposals, the ACL 2009 Bargaining Kit also sets out a number of **Recommended Proposals** for each bargaining team to consider when developing their proposals. Recommended Proposals will **not** be subject to the coordinated bargaining decision-making process. However, locals are strongly encouraged to consider these proposals in developing their bargaining packages. These recommendations are based on clear trends within the sector. The 5 Recommended areas are:

1. Professional colleges
2. Use of Personal vehicles
3. Work of the bargaining unit: volunteers and apprenticeship training program
4. Part-time issues
5. WSIB coverage

And finally, your bargaining package will contain local specific proposals.

Please note that during the 2009 round of coordinated bargaining, coordinated proposal benchmarks will be established during regularly scheduled conference calls. Therefore, it is vitally important that locals have consistent representation on the calls to coordinate provincial benchmarks on the eight core coordinated proposals. Timely information sharing is vital to strong coordination. Employers will be coordinating this round of bargaining. We too must communicate with each other so that we maintain consistent coordination, remain strong and build on our successes at the table!

CORE PROPOSAL #1 – Benefit Disclosure

We are coordinating our request for Benefit Disclosure at every table. The disclosure request is outlined in the *Notice to Bargain* (see Appendix A). Bargaining teams are also asked to refer to the *Local Commitment Agreement* and bargaining timelines as set out in Appendix B.

Rationale

This coordinated bargaining disclosure request is set out in the *Notice to Bargain* (see Appendix A). As part of the coordinated bargaining strategy, the ACL bargaining committee is conducting a detailed review of all benefit plans in the sector in order to identify options related to benefit coverage and bargaining. Full disclosure is vital in order to do a detailed analysis; it will also give your bargaining team the information necessary to negotiate your benefits in a fully informed way. We are entitled to this disclosure under the *Labour Relations Act* – there is no flexibility. Please see the bargaining timelines set out in Appendix B for more information.

CORE PROPOSAL #2 – Letter of Understanding, Re: Employer Lobby and Central Bargaining Forum

The Employer agrees to lobby the provincial government for adequate funding to ensure that accessible quality supports and services provided by community agencies are available to individuals with developmental disabilities and their families. A key component of this lobby will be for improved wages, benefits, pensions and working conditions for the workers within the sector as well as support for a strong community agency infrastructure to ensure equal access across the province.

The Employer further agrees to attend a forum hosted by CUPE where the concept of central bargaining will be explored.

Rationale

The majority of locals have negotiated the letter of understanding over the last two rounds of bargaining. It is essential that we continue to negotiate the letter at each round of bargaining and make improvements where necessary. CUPE local leadership has held discussions with many employers on the topic of joint lobbying strategies. It is evident that the mounting lobbying efforts by locals, employers and families have worked as we have seen with the infusion of \$200 million new dollars into the sector over four years!

Employers for the most part, continue to be resistant to central bargaining. However, there has been an acknowledgment by some employers that examining alternative bargaining structures makes sense, especially in light of the current work by employers and the ministry on a common HR strategy for the sector. We must continue to further this dialogue with the employers.

Employers will most likely bring back amendments to the letter. However, it is important for us to ensure that each letter contains similar objectives even if there are amendments to the actual wording. It is important to bring back any proposed changes by the employer to the group conference calls.

CORE PROPOSAL #3 – Letter of Understanding on Additional Funding

This will confirm the understanding of the parties during the term of the Collective Agreement, which expires March 31, 2011 with respect to the following matters.

In the event that the Ministry of Community and Social Services (MCSS) provides the Employer with additional funding for wages and/or benefits, and/or targeted funding for wages and/or benefits for the fiscal years 2009/2010 and 2010/2011, the Union and Employer shall meet to negotiate the method of allocation of funding to wages and/or benefits.

The Employer shall provide the Union with full disclosure regarding the current level of funding and any additional funding.

It is agreed that any additional funding flowing from the Ministry that the Ministry targets to wages and/or benefits shall be in addition to any bargained economic increases.

It is understood that the Employer will meet with the Union bargaining team and CUPE National Representative to negotiate the implementation of the funding.

This Letter of Understanding forms part of the Collective Agreement.

Rationale

It is important that all of our ACL agreements contain a letter of understanding regarding additional monies from the Ministry targeted to wages and/or benefits. In addition, it is vital that we make clear that any targeted wage enhancement funding is **in addition to** any bargained economic increases. As we have seen, many employers wanted to use the wage gap funding to pay for wage increases negotiated at the bargaining table – we should not let this occur again. It is likely we will encounter this tactic again in the upcoming round of coordinated bargaining.

CORE PROPOSAL #4 – Expiry Date

Expiry date of March 31st, 2011.

Rationale

The majority of CUPE bargaining units, fifty-five (55) in total, will be at the bargaining table in 2009. By negotiating the March 31st, 2011 expiry, the vast majority of CUPE ACL locals will have achieved the coordinated expiry date. The next provincial election will be held October 2011, and we want to exert maximum pressure on the government to move our sector agenda forward.

CORE PROPOSAL #5 Wages – Flat Rate

Recommendation A

The Union reserves the right to table a detailed flat rate proposal at a later date.

Rationale

What do we mean by “flat rate”? In bargaining a flat rate increase, each step of each classification in the wage grid increases by the same (dollar and/or cents) amount. Please see Appendix F, for the facts on tabling a flat rate amount and the need to reduce the number of increment steps in your wage grid.

The bargaining landscape has changed dramatically due to the release of the 2007 (\$1.40/hour) and 2008 (\$0.50/hour) wage gap monies and current economic climate. Delaying the tabling of our flat rate wage proposal will allow us to focus on bargaining improvements to non-monetary items. The union will be tabling a full monetary package at the conclusion of the non-monetary negotiations.

CORE PROPOSAL #6 Multi-Sector Pension Plan – MSPP

The Union proposes enrollment in the multi-sector pension plan. The Union reserves the right to table a detailed proposal at a later date.

Bargaining representatives and/or teams are urged to contact either Kathy Johnson at kjohnson@cupe.ca or Joe Courtney at jcourtney@cupe.ca for copies of the MSPP Bargaining Kit.

Rationale

The bargaining objective is for all ACL locals that don't have a pension plan, or that have an inferior defined contribution (money purchase) pension plan or group RRSP arrangement, to negotiate the MSPP. Under a defined contribution (money purchase) plan or group RRSP, the individual member bears the full risk for their retirement. Each individual member is responsible for investing their individual accounts. The amount of the benefit is determined based on the size of their individual account, the market conditions throughout their working lifetime as well as at the time of their retirement. Remember that RRSPs are not a pension plan. Many locals with RRSPs have negotiated those contributions to form the contributions to the MSPP.

The MSPP is a national defined benefit pension plan that can provide a lifetime retirement income based on a set formula. The MSPP is available to all bargaining units regardless of their size. Participation is mandatory for everyone in the bargaining unit after 500 hours of employment.

Contribution rates are not a coordinated item – locals will negotiate their own contribution rates. Although we haven't set contribution rates for this round of bargaining, locals are strongly encouraged to move to a combined 8% contribution rate so that eligible members can benefit from the past service benefit. The combined contribution rate from both members and the employer must be in the range from 4.0% to 10.5% of income. Employees must contribute but employers must match or exceed the employee's contribution rate.

Appendix D sets out the minimum Required Language to be negotiated. Some variation in the language is permitted if it enhances the rights of the members. For example, under the Plan, "applicable wages" means the basic straight time wages for all hours worked; also included in the definition is holiday pay, vacation pay, and sick pay. The Plan will accept a broader definition of wages, but not a narrower one. Therefore, it would be acceptable to include additional forms of compensation in the definition, such as overtime, shift premiums, reporting pay, standby pay, call-in pay, or any other remuneration paid to the employee.

Employers that participate in the MSPP are responsible for remitting Plan member contributions and personal information. They have no other responsibilities and/or liabilities. There is no cost to the employer in terms of Plan administration. There is an *Optional Addendum* that can be included in the collective agreement language if needed. Note that the **Optional Addendum** should only be added when an employer is arguing against the MSPP by claiming that they bear the risk to meet benefit costs.

Locals have a responsibility to file grievances when employers are delinquent in remitting contributions or providing the Plan with members' information. Your local might want to consider having a bargaining unit member monitor the remittance of contributions and ensuring members are enrolled in the Plan when they are eligible.

Please notify Peter Paulekat (ppaulekat@cupe.ca) if you require assistance with negotiating the MSPP. Further information on the MSPP is available at www.MSPP.ca, from the CUPE Research Branch or the CUPE trustees.

CORE PROPOSAL # 7 – Workplace Violence

Recommended Proposal

XX.01 Respectful Workplace

The Employer and the Union recognize their joint obligation to:

- Provide and maintain a safe and healthy workplace;
- Support and promote an environment that is free of disruptive workplace conflict and disrespectful behaviour, and;
- Comply with all duties and responsibilities under the *Occupational Health and Safety Act* as may be amended from time to time.

XX.02 While recognizing the Employer's legal responsibility to ensure that service needs are met, the Employer recognizes that the safety of its employees is of primary importance. The employer shall consult with the Joint Health and Safety Committee/ Health and Safety Representative(s) in developing and establishing effective measures and procedures for the Health and Safety of workers in order to reduce the potential for violence in the workplace.

XX.03 Compliance with Health and Safety Legislation

The Employer shall comply with all applicable federal, provincial and municipal health and safety legislation and regulations, as may be amended from time to time. All standards as of December 31st, 2005 established under the legislation and regulations shall constitute minimum acceptable practice to be improved upon by agreement of the Union-Employer Health and Safety Committee or negotiations with the Union and/or Legislation.

XX.04 Definition of Violence

In this section, "violence" means the attempted, threatened or actual conduct of a person that causes or is likely to cause injury, and includes any threatening statement or behavior that gives a worker reasonable cause to believe that individuals are at risk of injury. Violence includes the application of force, threats with or without weapons, severe verbal abuse and persistent sexual or racial harassment. It also includes incidents of domestic violence entering the workplace, stalking, personal harassment, psychological harassment, bullying or any other behavior that abuses, devalues or humiliates. It is understood that incidents of workplace violence, as defined in this section, can occur at off-site workplace locations including the homes of clients.

XX.05 Joint Health and Safety Committee

- a) The employer and union agree to establish a Joint Health and Safety Committee, as required and defined by the Occupational Health and Safety Act. Union representatives to the Joint Health and Safety Committee shall be bargaining unit members selected by the local union membership.
- b) All incidents involving violence shall be brought to the attention of the Joint Health and Safety Committee. The Employer agrees that the Joint Health and Safety Committee shall concern itself with all matters relating to violence to staff including but not limited to, policy, and/or training recommendations, which will be forwarded to the employer. The Committee shall provide a copy of the CUPE Health and Safety Violent Incident Report detailing health and safety issues to the Union within 24 hours of them being completed.
- c) In workplaces with five (5) employees or less, the union shall select at least one (1) bargaining unit member to act as health and safety representative. The health and safety representative shall have all the powers and responsibilities entitled to a Joint Health and Safety Committee as stipulated under the Act.
- d) It is agreed that all members of the Joint Health and Safety Committee will successfully complete certification training. Such training will be provided on the Employer's time and expense, and will be considered as time worked with no loss of wages.
- e) A member of a committee is entitled to,
 - (i) one hour or such longer period of time as the committee determines is necessary to prepare for each committee meeting;
 - (ii) such time as is necessary to attend meetings of the committee; and
 - (iii) such time as is necessary to carry out the member's duties.
- f) A member of a committee shall be deemed to be at work during the times described in XX.05e and the member's employer shall pay the member for those times at the member's regular or premium rate of pay.

XX.06 Violence Policies and Procedures

- a) The Employer and the Union agree that within thirty (30) days from the ratification date of this Agreement the parties will meet to jointly develop a policy on workplace violence. Such policy shall be completed and effective not later than ninety (90) days from the ratification date of this Agreement.
- b) The policy will address the code of conduct for residents or clients, prevention of violence, the management of violent situations and the provision of legal counsel and support to employees who have experienced violence. The policies and procedures shall be part of the

Employer's health and safety policy and written copies shall be provided to each employee. The policies and procedures will include but not be limited to:

- i) Provision of adequate information about the previous actual or potential violent behavior of a resident or client towards employees;
 - ii) Adequate arrangements to investigate cases where violence and assaults against employees have occurred;
 - iii) Provision for the Joint Union/Employer Health and Safety Committee, or some other vehicle mutually agreed to by the Employer and the Union, to annually review and/or amend the effectiveness of anti-violence policies; and,
 - iv) A reporting procedure to document incidents of workplace violence as set out in the CUPE Health and Safety Violent Incident Report.
- c) The Workplace Violence Policy shall form part of this Collective Agreement and shall be reviewed annually and only be amended by mutual agreement of the employer and the union.

XX.07 Violence Prevention

The Employer agrees that in all cases where employees or the Union identify a risk of violence to staff, the Employer shall establish and maintain measures and procedures to reduce the likelihood of incidents to the lowest possible level. It is understood that the measures and procedures are in addition to and not a replacement for a training program about dealing with violence. It is also understood that this provision does not impede an employee from exercising their rights under the *Occupational Health and Safety Act* provisions concerning the right to refuse unsafe work.

XX.08 Workplace Hazard Assessment

- a) A workplace hazard assessment must be performed in any workplace in which a risk of injury to workers from violence arising out of their employment may be present.
- b) The workplace hazard assessment must include the consideration of:
 - i) Previous experience of violence in that workplace;
 - i) The occupational experience of violence in similar workplaces; and
 - ii) The location and circumstances in which work will take place.

- c) If a potential of injury to workers from violence is identified by an assessment performed under a) and b) above the employer must:
 - i) Establish procedures, policies and work environment arrangements to eliminate the hazard to workers from violence, and
 - ii) If elimination of the hazard to workers is not possible, establish procedures, policies and work environment arrangements to minimize the hazard to workers,

This provision in no way limits a workers right to refuse under the *Occupational Health and Safety Act*. It also does not limit the Health and Safety Committee's ability to investigate and/or deal with violent incidents.

XX.09 In the event that an act of workplace aggression and/or violence as defined above occurs, the following shall be considered (but not limited to) by the Director, Supervisor and employee:

- Transfer of the file or the worker
- The need for additional support staff
- Temporary reassignment of current workload to someone not involved in the incident; the employer shall make the replacement worker aware of the potential for violence or hazards that have been identified
- Referral and access to Peer Support or other crisis related counseling. Time spent in Peer Support will be considered time worked.
- Accompaniment to the hospital and/or home.

XX.10 Refusal to Work Where Health and/or Safety is in Danger

An Employee may refuse to carry out duties if the Employee has reason to believe such duties are likely to endanger the Employee, another worker, an unborn child, a client or the public, as defined by the *Occupational Health and Safety Act*, and the Employee shall enjoy the full protection of the Act in all areas relating to discipline, remuneration and seniority.

XX.11 Duty to Inform and Training

- a) The employer must inform workers who may be exposed to the potential of violence of the nature and extent of the hazard.
- b) The duty to inform workers includes a duty to provide information related to the potential of violence from persons who have a history of violent behavior and whom workers are likely to encounter in the course of their work.
- c) Any training program will include adequate opportunities for facilitation by union instructors, where applicable.
- d) All employees working in areas where there is a potential of violence shall be trained with a course including but not limited to:

- i) Causes of violence;
 - ii) Factors that precipitate violence;
 - iii) Recognition of warning signs;
 - iv) Prevention of escalation;
 - v) Controlling and defusing aggressive situations;
 - vi) Procedures, policies and work environment arrangements that have been developed to minimize or effectively control the potential of violence to workers;
 - vii) Appropriate responses to incidents of violence, including how to obtain assistance; and
 - viii) Procedures for reporting, investigating and documenting incidents of violence.
- e) Paid training, including any Ministry training, will be provided to employees within one (1) month of commencing work with clients whose behaviour is aggressive.
 - f) The Employer will provide adequate staffing in situations where the Employer has determined that the behaviour of a client is aggressive and employees are potentially at risk.
 - g) The Employer agrees to take every reasonable precaution necessary to protect staff from violent incidents including, but not limited to, the removal or secure maintenance of potentially dangerous objects.

XX.12 Damage to personal property

The Employer will compensate an employee for damage or loss of personal property including, but not limited to, clothing, eyeglasses and watches, in the event such property is destroyed by a resident while the employee is performing his or her regular duties. The employer shall compensate by providing the replacement cost of the personal property.

XX.13 Injury Pay Provisions

- a) An Employee who is injured or traumatized during working hours, and is required to leave for treatment or is sent home for such incident, shall receive payment for the remainder of the shift at the Employee's regular rate of pay without deduction from sick leave.
- b) Employees will have access to sick leave credits and/or Long Term Disability until such time as the employee's claim for benefits is approved by the WSIB. There shall be no deduction of sick leave credits for payments made under the provisions of the *Workplace Safety and Insurance Act*.

- c) The Employer agrees to provide debriefing and post-traumatic stress counselling for individuals who have been exposed to violence or aggression in the workplace (including secondary trauma and vicarious trauma).
- d) An Employee who has received payment under this Section shall receive pay for time necessarily spent for further medical treatment of the injury during regularly scheduled working hours, subsequent to the day of the accident.
- e) In a situation where a worker is assaulted in the course of their duties, if they exercise their right to lay charges after consultation with the employer, they shall be granted leave of absence without loss of regular pay for preparation and attendance at the court hearings. Any time spent under this article shall be considered at work time.

XX.14 Transportation

Transportation to the nearest physician or hospital for Employees requiring care by a physician or hospital, as a result of a workplace incident, shall be at the expense of the Employer.

XX.15 Reporting

- a) In the event that the employee identifies a potential hazard for violence in the direct performance of his/her duties the employee shall:

Immediately bring the matter to the attention of his/her Team Supervisor or Duty Supervisor.

Meet with Team Supervisor/Duty Supervisor and assess the potential hazard and develop a plan to ensure the safety of the employee while in the performance of his/her duties.

Such a plan may include, but not be limited to co-teaming with another employee.

Such a plan for Internal Resources may include, but not be limited to, the need for additional staff.

If the plan involves co-teaming the Team Supervisor or Duty Supervisor will identify and direct another person to co-team with the employee.

Employees must be accompanied when a safety risk has been identified. Safety risks may be the result of, but not limited to recent random violence in the area, recent evidence of drug dealing, evidence of active mental health concerns with the client, client with a criminal record (in the past five (5) years) for violent offences, threats made by a client.

Employees must be accompanied when a hazard of violence has been identified.

Where a Supervisor or Duty Supervisor is aware that a client poses a safety hazard, as defined above, the Supervisor will advise the worker of the safety hazard and discuss a safety plan in accordance with this Article.

When there is an incident involving violence as per XX.04 *Definition of Violence*, or impacts on the health and safety of an employee, the CUPE Health and Safety Violent Incident Report shall be completed. The Incident Report shall be forwarded to each of the joint Health and Safety Committee Chairs or designates within 24 hours of the incident being reported.

In the event of a dispute involving an incident of workplace violence or potential hazard of violence, the certified members of the Joint Health and Safety Committee or Health and Safety Representative shall investigate.

If the issue is not resolved, the supervisor will refer the matter to the appropriate Service Director who will determine an alternative resolution and provide a written response to both the supervisor and employee within five (5) working days. The Union shall receive a copy of the Service Director's response.

If the issue remains unresolved, the Service Director will refer the matter to the Executive Director who will provide a written response to all parties (including the Joint Health and Safety Committee or Health and Safety Representative) within ten (10) working days. The Union shall receive a copy of the Executive Director's response.

If the issue remains unresolved, the Executive Director shall refer the matter to a Department of Labour Health and Safety Inspector, who shall investigate the matter in consultation with the employer or a person representing the employer and the worker. An order written by an Inspector for corrective action can be appealed by either party.

When there is an incident involving violence as per XX.04 *Definition of Violence*, or impacts on the health and safety of an employee, the *CUPE Health and Safety Violent Incident Report* shall be completed. The *Incident Report* shall be forwarded to each of the joint Health and Safety Committee Chairs or designates within 24 hours of the incident being reported.

XX.16 CUPE National Representative (*please add if existing language does not already provide for this type of support*)

The parties agree that the Union plays an important role in ensuring a safe and healthy workplace. To that end, the Union has a right to bring in a CUPE National Representative to attend Joint Health and Safety meetings as guests, to observe Committee business, and to assist in the development of policies, measures, procedures and training pertaining to violence in the workplace.

Rationale

The people we support don't always understand the consequences of their behaviour. However, that does not negate the Employer's responsibility to provide and maintain a safe and healthy work environment. The people we support have complex needs, including complex behavioural issues. The closure of the regional centres means that we now support an increasing number of supported individuals with even more complex needs. In order to protect everyone in the workplace – workers *and* supported individuals – it is essential that we bargain language into our collective agreements.

Approximately 17 percent of violent incidents in Canada occur at work (Statistics Canada, 2004: *Criminal Victimization in the Workplace*). Clients, customers and other members of the public are the most frequent perpetrators of violence against workers. By comparison, acts of violence committed by coworkers and acts of domestic violence in the workplace are rare – but such incidents do occur.

The risk of experiencing workplace violence increases depending on where you work. For example, we know that there is an increased risk of workplace violence in social services. Work activities that can put workers at increased risk include transporting people, working with the public, working with vulnerable populations (e.g. persons with developmental disabilities, children and families in the Child Welfare system), working alone, working late nights or early mornings.

Under Ontario's *Occupational Health and Safety Act*, employers have a general duty to take every reasonable precaution to protect the health and safety of workers – this includes taking reasonable precautions to prevent workplace violence. Safe workplaces are safe for all people in the work environment including workers, volunteers, supported individuals and visitors. It is a joint employer and union responsibility to ensure a safe and healthy workplace.

It is important that we document any and all incidents of workplace violence. The language proposes that when violent incidents occur the *CUPE Health and Safety Violent Incident Report* is completed (see Appendix G). Please note that copies of the Incident Report are to be provided to the Employer, Joint Health and Safety Committee, Local Union, and the Employee making the complaint.

Please consult the *Workplace Violence Language Checklist* (Appendix H) for a list of benchmark proposals to assist your bargaining team to identify which proposals need to be tabled to augment your existing language.

CORE PROPOSAL #8 – Work of the Bargaining Unit

XX.01 Work of the Bargaining Unit

Bargaining unit work shall only be performed by bargaining unit members. The use of students, volunteers or any other persons not in the bargaining unit to perform bargaining unit work is strictly prohibited unless mutually agreed to in writing by the parties to this collective agreement.

Where a parent or a representative of a supported person, or a supported person herself/himself enters into a written or verbal agreement with the Employer for the provision of supports or services from the Employer, the Employer shall only use bargaining unit members to provide such supports or services.

It is agreed that volunteers, including students, co-op students, parents and others who provide assistance to the Employer on a paid or unpaid basis, shall be used only to enrich programs or provide other services, and shall not be used if such use affects the terms and conditions of employment of a bargaining unit employee, or replaces, or is used in lieu of employing a bargaining unit employee.

XX.02 Restrictions on Contracting Out

In order to provide job security for the members of the bargaining unit, the employer agrees that all work or services presently performed, in addition to work hereafter assigned to the bargaining unit, shall not be contracted, sub-contracted, transferred, leased, assigned, or conveyed, in whole or in part, to any other plant, person, company, or non-unit employee except in cases mutually agreed to between the union and the employer.

XX.03 Notice and Disclosure

The Employer shall give the union sixty (60) days notice in writing in the event the Employer and/or Ministry is contemplating or planning reductions and/or closure of programs, services, or supports; layoffs; restructuring; or any other initiative that would impact the work of the bargaining unit and/or job security of bargaining unit members.

The Employer shall meet with the Union within five (5) working days of the written notice at which time the Employer shall fully disclose to the Union any and all plans for reductions and/or closure of programs, services, or supports; layoffs; restructuring; or any other initiative that would impact the job security of bargaining unit members.

XX.04 Qualifications

Should job qualifications change, bargaining unit members will be deemed qualified in their current position, and those qualifications for which the employee has been deemed qualified will be transferable to any other position within the bargaining unit which requires those qualifications.

Rationale

The passage into law of Bill 77, *the Services for Persons with Disabilities Act 2008*, means that direct funding is now entrenched in legislation. As noted in the *Introduction*, the expansion of direct funding to families of persons with developmental disabilities means that our collective agreements will be increasingly under attack as employers seek to attain “flexibility” in service provision.

The expansion of direct funding will shift the delivery of programs and services away from community-based agencies. Direct funding creates a two-tiered system of service delivery that erodes quality public services and undermines our job security. In response to this radical shift in service delivery, we must negotiate language to maximize our job security entitlements by protecting the work of the bargaining unit.

Please check that the scope clause in your collective agreement is inclusive of *all workers* – including directly funded positions.

In our goal to protect bargaining unit work, we are proposing language that ensures that bargaining unit work will only be performed by bargaining unit members, including work provided through direct funding options. The aim of the proposal is to ensure the work of the bargaining unit is not undermined by the use of volunteers and employees of a third party employer (see Proposal XX.01).

We believe that caregivers/family members/directly funded individuals should not have the ability to hire, fire and/or discipline bargaining unit members; neither should they have input into hiring, firing and/or disciplinary decisions concerning bargaining unit members.

We are also proposing language that restricts the employer’s right to contract out bargaining unit work (Proposal XX.02). In the event of reductions and/or closure of programs, services, or supports; layoffs; restructuring; or any other initiative that would impact the job security of bargaining unit members, we are proposing language that obligates the Employer to give the union sixty (60) days notice; the Employer must also meet with the Union and disclose all relevant information regarding the planned actions(s) (see Proposal XX.03). Finally, Proposal XX.04 puts forth “deemed qualified” language that will protect employees should job qualifications change.

APPENDICES

APPENDIX A: NOTICE TO BARGAIN/CONCILIATION

ACL Notice and Conciliation Application – to be filed January 9th 2009 by the local's assigned National Servicing Representative.

National Representatives; please request Michelle Ryan as the conciliation officer on the conciliation application.

Sent this day via Fax and Priority Post Courier

Date

Employer

Address

City, Prov

Postal Code

Dear

RE: Canadian Union of Public Employees and its Local _____ and _____ (Employer name) ~ Notice to Bargain and Application for Conciliation.

Please be advised that in accordance with the provisions of our Collective Agreement and the *Ontario Labour Relations Act*, the Union hereby serves notice to bargain with a view to amending our existing agreement. In addition, enclosed you will find a copy of our application for conciliation.

Pursuant to the fifteen (15) day meeting requirement, s.17 of the *Ontario Labour Relations Act*, kindly contact the writer to arrange a mutually agreeable date for the commencement of negotiations.

In order to prepare and negotiate the renewal of the Collective Agreement in good faith, the Union requests disclosure of the following items:

- Full financial disclosure on the operations of the Employer, including all correspondence from the Ministry related to the allocation of wage gap monies, a copy of the last audited financial statement and any other ancillary documents dealing with the financial health of the Employer.
- Identification of any initiatives currently undertaken or to be undertaken by this Employer, which will negatively impact on the bargaining unit members. This would include but not be limited to layoffs, divestments, disposition of property and facilities, acquisitions, mergers, and relocation of staff to other facilities.

- List of bargaining unit employees, mailing addresses, home phone number, rate of hire, classification, employment status, weekly hours of work, hourly rate/annual salary and benefits
- A complete and current organization chart of the Employer listing all positions indicating whether they are vacant or filled.
- Benefit information including;
 - Benefit Plan Details including;
 - A copy of the Employee Benefits Booklet
 - The master contract, including updated amendments for all benefits
 - A copy of the Underwriting Agreement with all insurers.
 - Census and Financial Information including;
 - Census data for all eligible members (age or date of birth, gender, salary, occupation, benefits waived by line, status i.e., active, LOA, disabled etc)
 - Claims experience - paid claims for past 3 years and paid premiums, or copy of last 3 renewal statements from insurer
 - Financial report or audited statement of the trust fund for the last three years including a breakdown of all reserves and expenses for the last three years
 - Premium rates for the last 3 years / single/ family

Please confirm whether you or the underwriter will be providing this information.

The union requests all disclosure requests outlined above to be provided to the union by January 30 2009.

Note: The union reserves the right to seek further information as needed to facilitate this round of bargaining.

By separate correspondence, I will be supplying the names of the Union bargaining team members.

If you have any questions or concerns please contact me directly:
(phone number)

Sincerely,

Name
National Representative
Canadian Union of Public Employees

Copy: Local President
Kathy Johnson, CUPE Social Service Coordinator - Ontario
Assistant Regional Director

APPENDIX B: COORDINATED BARGAINING PLAN – 2009 LOCAL COMMITMENT AGREEMENT

For Locals Bargaining in 2009

CUPE Local _____ agrees to join the coordinated bargaining process approved by the ACL locals attending the September 29, 2008 sector-wide meeting in Toronto and as set out below:

Locals at the bargaining table in 2009 commit to the core coordinated bargaining proposals as follows:

- 1) **Benefit Disclosure** – disclosure for benefit plan information and costing will be included in each local's notice to bargain. Failure of the employer to provide the information within the requested timeframe will result in the local filing a labour board complaint.
- 2) **Letter of Understanding that commits the Employer to:**
 - Actively lobby the provincial government for adequate funding of sector agency structure in order that accessible quality supports and services are available to individuals with developmental disabilities and their families. A key component of this lobby will be for higher wages, benefits, pensions and working conditions for the workers within the sector.
 - Attend a forum where the concept of central bargaining structures will be explored.
- 3) **Letter of Understanding on Additional Funding:** the letter ensures that should the Ministry release any monies targeted to wages during the life of the agreement, then the Employer must negotiate with the Union the implementation of such funding.
- 4) **Wages (a flat rate)**
- 5) **Health and Safety (Violence) Language:** a common proposal that commits the employer to ensuring a respectful, safe and healthy workplace.
- 6) **Work of the Bargaining Unit:** common language to address concerns related to the impact of the provincial government's expansion of an individualized funding model that threaten the services we provide and the working conditions of those who deliver those services.
- 7) **Pension:** Enrolment in the Multi-Sector Pension Plan for locals with no existing pension plan or whose plan is inferior to the MSPP (Note: RRSP's are not a pension plan). Contribution levels are to be negotiated locally.
- 8) **Common Expiry Date:** March 31, 2011

Timelines

Bargaining Preparation

- Letters of Commitment and Solidarity Motions returned ASAP but no later than mid December
- Ratification of bargaining proposals prior to mid December in preparation for a tight negotiation timeframe

Education and Training

- Access CUPE bargaining training for those on the committee who have not had training – ASAP
- Schedule Member Mobilization (Strike Averting) Training – ASAP but before mid February

Notice to Bargain/Conciliation and Information Disclosure

- Serve notice to bargain and file for conciliation including request for information disclosure on January 9, 2009 using the letter provided in the ACLBC Bargaining kit. Note: This notice will be sent by assigned servicing representative on behalf of the local.

NOTE: Filing for Conciliation - Locals need to check the language in their Collective Agreement regarding bargaining committee payment of wages. If the employer no longer pays wages once an application for conciliation is filed please contact the Social Service Coordinator, Kathy Johnson kjohnson@cupe.ca, prior to serving notice to bargain.

- If full benefit disclosure (and any other requested disclosure) is not provided to the union negotiation team a letter will be sent by the assigned national representative on behalf of the local, on January 30, 2009 notifying the employer of the local's intention to file a labour board complaint if the information is not received by February 6th, 2009.

February 9, 2009: file Labour Board Complaint if full disclosure is not provided.

Bargaining

- Ensure exchange of proposals by January 30, 2009
- Ensure that the local and employer have had one meeting with the conciliation officer by April 1, 2009
- Participate in bargaining conference calls (initially biweekly, then more often as bargaining unfolds)

- Maintain firm coordination on the eight (8) core coordinated proposals. This means that no local will modify any of the eight (8) core coordinated proposals, or sign a memorandum of agreement, without consultation with and the agreement of the other locals in coordinated bargaining through the regular telephone conferences.
- Locals who are able to achieve a collective agreement that meet the eight (8) core coordinated priorities as per the process above plus their local bargaining priorities shall settle their bargaining thereby setting a pattern for other locals to follow.

THE ACLBC 2009 BARGAINING KIT WITH ACTUAL COORDINATED BARGAINING LANGUAGE AND RATIONALE FOR EACH OF THE CORE AND RECOMMENDED PROPOSALS, WILL BE FORWARDED TO ALL LOCALS AND ASSIGNED NATIONAL REPRESENTATIVES IN NOVEMBER

Signed this _____ day of _____ 2008

President: _____

Local _____

Email: _____

Phone: _____

Please return by mid December 2008 to both:

- Your assigned National Representative **AND**
- Fax a copy to (416) 292-2839
Attention: Kathy Johnson, Social Services Coordinator

APPENDIX C: RECOMMENDED BARGAINING PROPOSALS

RECOMMENDED PROPOSAL #1 – Professional Colleges

- .01 There will be no requirement for any bargaining unit member to become a member of a College unless required by a ministry directive, regulation or legislation.
- .02 If any bargaining unit members choose to become a member of a College such employee(s) shall suffer no loss of employment or a reduction of wages and benefits by nature of discipline by such College.
- .03 Membership and/or non-membership in the College will not be a matter of discipline nor a consideration in hiring/firing or being a successful applicant for a position or promotion.
- .04 Where the Employer makes a report to the College related to an employee, a copy of the report shall be immediately forwarded to the employee and the Union. The employer agrees that it will not file a report with the College on any bargaining unit employee if there is an outstanding grievance involving such employee.
- .05 Notwithstanding the above, the Employer shall not forward a copy of any reports that would constitute a breach of any Terms of Settlement negotiated by the Union on behalf of its member(s).
- .07 Where legislation requires employees to become members of the College, the Employer shall pay the full costs of all registration and membership fees.
- .08 Where legislation requires employees to become members of the College, the Employer shall grant a paid leave of absence to any employee who is required to take any course and/or to write an examination, which maintains required certification with the college. The Employer shall reimburse such employees for all costs associated to maintain this required membership.
- .09 If a complaint is filed with the College by a client concerning an employee's conduct in the performance of the employee's duties for the Employer, the Employer will provide legal defense for the employee in preparation for and at the hearing by the College.

Rationale

Increasingly, the social services sector in Ontario is being required, through legislation, to become members of their respective regulatory colleges. For example, the provincial government has established the *College of Early Childhood Educators* to regulate child care workers. And, the *College of Social Workers and Social Service Workers* has been established to regulate social workers and social service workers. At this time membership in the *Social Work College* and *College of Early Childhood Educators* is voluntary. However, membership is mandatory for those wanting to call themselves Social Workers, Social Services Workers, and Early Childhood Educators. There are clear indications the government is considering the establishment of a DSW College.

The establishment of regulatory colleges as a trend is likely to continue in the wider social services sector. It is important to know that regulatory colleges are NOT teaching colleges. The role of regulatory colleges is to regulate the practice of workers AND to discipline workers where there are allegations of professional misconduct.

Regulatory Colleges' ability to discipline workers often bump up against our collective agreement rights, which is why we need to bargain language that provides us protections in the event bargaining units members are disciplined by the college.

Issues addressed in the recommended proposal include a requirement for the Employer to pay all fees associated with certification, paid leave of absence to study or write an examination related to certification, and no loss of employment in the event members are disciplined by the College.

RECOMMENDED PROPOSAL #2 – Use of Personal Vehicles

Local bargaining teams are encouraged to consider tabling Proposal 2A as an opening position. If having access to a vehicle is a condition of employment in your workplace, then consider tabling either Proposal 2B OR 2C.

NOTE: DO NOT TABLE ALL THREE PROPOSALS SIMULTANEOUSLY.

RECOMMENDED PROPOSAL #2A – No Use of Personal Vehicles

No Bargaining Unit employee shall be required to use their personal vehicle for employer business.

Rationale

Proposal 2A is our opening or first position in bargaining. CUPE doesn't recommend the use of personal vehicles for work related activities. Liability issues for CUPE members can be very significant especially when passengers are supported individuals or children. It can also be argued that kilometer allowances paid by the employer do not cover the full costs associated with vehicle wear and tear and the recent high costs of fuel. **If Proposal 2A is not achievable at the bargaining table, then bargaining teams are encouraged to table either Proposal 2B OR Proposal 2C.**

Proposal 2B obligates the Employer to pay bargaining unit members the maximum kilometer allowance as determined by the Federal Finance Department during the term of the collective agreement. Proposal 2C is an escalator clause that provides for periodic adjustments to the kilometer allowance based on the percentage change in the Ontario Private Transportation Index (OPTI) published by Statistics Canada.

RECOMMENDED PROPOSAL #2B – Maximum Reimbursements

All employees who are required to use their personal vehicle for the employer's business shall be reimbursed at the maximum Automobile Deduction Limits and Expense Benefit Rates for Business kilometerage rate published each year by the Federal Department of Finance.

If there is an increase, including subsequent increases, to the Department's Automobile Deduction Limits and Expense Benefit Rates for Business during the term of this collective agreement, then employee's shall be reimbursed at the new maximum rate.

<p>NOTE: <i>It is expected that the 2009 Automobile Deduction Limits and Expense Benefit Rates for Business will be made public late December 2008. Visit the Federal Department of Finance website at http://www.fin.gc.ca/ for updates.</i></p>

Rationale

According to the Canada Revenue Agency (CRA), an automobile allowance is taxable unless it is a reasonable per-kilometer allowance. CRA considers a reasonable allowance to be equivalent to the prescribed rate. Ontario's 2008 prescribed rate has increased by two cents to 52 cents per kilometer for the first 5,000 kilometers driven, and 46 cents for each additional kilometer. Vehicle allowances that deviate from the prescribed rate are considered "unreasonable" and subject to taxation. It is recommended that CUPE collective agreements refer to the prescribed rate in order to avoid this dilemma.

Employers are not prevented from paying more than the prescribed rate. But, the onus is on the employer and the worker(s) to justify a rate higher than that prescribed by the Federal Finance Department. If the higher per kilometer rate can be justified the vehicle allowance can be considered non-taxable income.

RECOMMENDED PROPOSAL #2C – Escalator Clause

All employees who are required to use their personal vehicle for the employer's business shall be reimbursed at (insert amount to be negotiated) cents per kilometer. The kilometer rate will be adjusted quarterly and equivalent to the year-over-year percentage change in the Ontario Private Transportation Index (OPTI) published by Statistics Canada. The adjustment shall be rounded to the nearest one-tenth (1/10) of a cent. Under no circumstances will the kilometer rate be adjusted downward.

In cases where the percentage adjustment of the OPTI applied to the existing kilometer rate does not equal or exceed one half (\$0.005) cent there will be no adjustment applied; however, that portion of one half (\$0.005) cent shall be brought forward for inclusion in the next calculation for adjustment.

Rationale

Based on past bargaining experience it is likely that many locals may not achieve the bargaining language as set out in Proposal 2B. If that is the case, bargaining teams are encouraged to table the language as set out in Proposal 2C. Locals will decide which of the two proposals to table based on their own bargaining experience.

You will need the following information in order to calculate adjustments to the kilometer rate based on changes to the Ontario Private Transportation Index:

1. Maximum kilometer rate found in your current collective agreement.
2. Most recent Ontario Private Transportation Index published by Statistics Canada. (You can find the Index online at <http://www.statcan.ca/start.html>. The Consumer Price Index, of which the Private Transportation Index is a component, is published monthly by Statistics Canada).

Below you will find the Ontario Private Transportation Index published by Statistics Canada for the period September 2007 to September 2008 (year over year).



Statistics Canada / Statistique Canada



Consumer Price Index, transportation, by province (monthly)					
(Ontario)					
	September 2007	August 2008	September 2008	August 2008 to September 2008	September 2007 to September 2008
	2002=100			% change	
Ont.					
All-items	111.0	114.8	115.1	0.3	3.7
Transportation	116.6	123.5	122.5	-0.8	5.1
Private transportation	117.0	123.1	122.9	-0.2	5.0
Purchase, leasing and rental of passenger vehicles	97.9	90.5	89.6	-1.0	-8.5
Operation of passenger vehicles	135.2	155.1	155.5	0.3	15.0
Public transportation	112.6	126.2	119.0	-5.7	5.7
Local and commuter transportation	116.3	124.0	124.1	0.1	6.7
Inter-city transportation	110.3	127.5	115.9	-9.1	5.1

Source: Statistics Canada, CANSIM, table (for fee) [326-0020](#) and Catalogue nos. [62-001-X](#) and [62-010-X](#).
Last modified: 2008-10-24.

Note the row titled *Private Transportation*. You can see that for the period September 2007 to September 2008 (year over year), Ontario's Private Transportation Index increased by 5.0%. Now, calculate your local's new kilometer rate by multiplying the Private Transportation Index by the maximum kilometer rate found in your current collective agreement. For this example, the maximum kilometer rate is \$0.37 cents per kilometer:

$$5.0\% \times \$0.37 \text{ cents per kilometer} = \$0.0185 \text{ cents per kilometer}$$

So, the local's new kilometer rate would increase by \$0.0185 cents to \$0.3885 cents (\$0.0185 + \$0.37 = \$0.3885), which can be rounded to \$0.39 cents per kilometer.

Note that this calculation can be done monthly, every six months, or quarterly to reflect ongoing changes in the Private Transportation Index. The proposal recommends quarterly calculations based on the escalating and often fluctuating price of fuel. However, your local may want to table language based on fewer or more adjustments to the kilometer rate.

RECOMMENDED PROPOSAL #2D – Vehicle Insurance

The employer will pay the actual cost of amending from:

Personal use automobile insurance with \$1,000,000 third party liability coverage including accident benefits, collision and comprehensive,

To

Business use automobile insurance with third party liability coverage of \$2,000,000, including accident benefits, collision, comprehensive, AND the OPCF 6A rider ('Permission to Carry Paying Passengers') upon submission of satisfactory proof of coverage and expense.

Employees required to carry infants and toddlers must provide a bolt for attachment of the infant and toddler seats. The employer shall reimburse the employee for the cost of seat bolt installation as well as the seats. As an alternative, the employer will arrange and pay the actual cost for installation of the bolt and the seats.

The Employer will provide, at its own expense, emergency first aid kits to those employees required to carry infants and toddlers in their personal vehicles.

ALERT: Having a kilometer allowance *plus* employer paid vehicle insurance could be considered as taxable income. Locals finding themselves in this dilemma are asked to contact Joe Courtney (jcourtney@cupe.ca) for more information.

Rationale

A number of developmental service workers are required to use their personal vehicles for the employer's business.

CUPE doesn't recommend the use of personal vehicles for work related activities. However, if members use their vehicles on employer business, it is important to ensure the employer pays for adequate insurance coverage to cover costs that may exceed personal automobile coverage.

Liability issues for CUPE members can be very significant especially when passengers are supported individuals. This may be the time to begin discussions within the local and with the employer about moving to using employer vehicles only when transporting supported individuals.

After consulting with insurance underwriters, it is recommended that employees obtain OPCF 6A insurance coverage to permit the automobile(s) to be used to carry paying passengers. This coverage is usually reserved for workers who are compensated for driving passengers, such as taxi drivers. However, receiving a kilometerage allowance coupled with wages could potentially be characterized as compensation.

The cost of OPCF 6A coverage will vary amongst insurance companies, and will also vary depending on a person's driving record, but the cost could range from \$35.00 to \$100.00 annually per worker, or more. There will also be additional costs for increasing third party liability coverage. We recommend increasing third party liability coverage from \$1,000,000 to \$2,000.00 because the potential liability for injury to a passenger, including supported individuals, can be great.

Calculating Vehicle Expenses

The publishers of the Canadian Automobile Association's (CAA) brochure *Driving Costs* (2005 edition) calculate the average national costs associated with owning and operating a vehicle. Ownership costs are fixed and include costs associated with insurance, license and registration, depreciation, and financing. Operating costs are variable and include the costs of fuel, maintenance and tires.

The CAA bases its calculations on a 2005 Chevrolet Cavalier Z-24, 4-cylinder, four-door sedan, and a 2005, 6-cylinder, Dodge Caravan. The assumed annual driving distance is 18,000 km's.

The CAA uses annual operating and ownership costs to calculate the annual costs associated with driving a vehicle per kilometer, otherwise referred to as the "per kilometer rate." For example, according to the CAA, it costs 51.5 cents/km to drive a Chevrolet Cavalier Z-24. The corresponding figure for the Dodge Caravan is 56.8 cents/km. These estimates are higher than the Federal Finance Department's prescribed rate for Ontario of 50 cents per kilometer.

In arriving at these figures the CAA based its calculations on national average fuel costs at December 2004 of 86.9 cents/litre. However, as of August 2005, Canadians were paying an average of more than \$1.04 per litre for regular unleaded gasoline.

It could be argued that although CAA estimates are higher than the Finance Department's prescribed rate, the CAA's own driving cost estimates are below the actual costs associated with driving a vehicle in Ontario, due to the sharp increase in national average fuel costs.

RECOMMENDED PROPOSAL #3A – Work of the Bargaining Unit – Monitoring the Use of Volunteers

XX.01 The employer will advise the union in writing of the names of all volunteers, the type of services to be performed and the location.

Within the first month of engaging a new volunteer the employer will provide the union with the opportunity of meeting the new volunteer, during work hours, for up to one (1) hour for the purpose of providing an orientation to volunteering in a unionized workplace.

Every three (3) months, the employer will provide to the union a report in electronic form on the number of volunteers and the number of volunteer hours used by the employer in the preceding three month period.

Rationale

In 2000, Canadians contributed 1.05 billion hours volunteering with groups and organizations. That translates into 549,000 full-time, year round jobs. Of the top five sectors in which the majority of Canadian volunteers are found, social services organizations rank second: 20% of all volunteers are found in Canada's social services sector.

Cuts to public services have resulted in increased demands for help from volunteers. Jobs once done by full time workers have been offloaded to families and community service organizations. Many students try to gain the experience required for a full time job by volunteering in their field.

Volunteers should be used to enhance not replace paid work. If volunteer work becomes an ongoing need it should become paid work.

RECOMMENDED PROPOSAL #3B – Work of the Bargaining Unit – DSW Apprenticeship Program

The Union reserves the right to table a detailed proposal at a later date.

Rationale

Locals are asked **NOT** to sign any apprenticeship agreements provided by the employer and/or ministry. We now have agreement for a joint labour/employer committee to discuss provincial Human Resource strategy issues. The union has asked for the DSW Apprenticeship Program to be put on the agenda. It is important that the sector continue to have further discussions with a view to developing a detailed position.

RECOMMENDED PROPOSAL #4 – Part-Time Issues

The ratio of part-time to full-time workers in the sector has shifted dramatically. Part-time workers now comprise the majority of workers in many workplaces around the province. In fact, in some workplaces part-time workers comprise approximately two-thirds of the bargaining unit.

It is important that we include part-time workers and their issues in our bargaining strategies. Your staff representative can assist with language development of part-time issues on the bargaining agenda. Your bargaining team is encouraged to consider the following part-time issues as you set your local's bargaining agenda:

- 4a) Maximizing Hours
- 4b) Conversion to Full-Time
- 4c) Access to Benefits and Pensions
- 4d) Rates of Pay
- 4e) Equal Pay for Equal Work
- 4f) Capping the Ratio of Full-time to Part-time
- 4g) Other Issues as identified by your membership

RECOMMENDED PROPOSAL #5 – WSIB Coverage

XX.01 Coverage

The Employer agrees to cover all employees under the *Workplace Safety and Insurance Act* (WSIA). Employees will have access to sick leave credits and/or Long Term Disability until such time as the employee's claim for benefits is approved by the WSIB.

Rationale

Many Developmental Services agencies either refuse to provide workers coverage under the *Workplace Safety and Insurance Act*, or have opted out of providing such coverage to employees. The recommended proposal aims to change that by requiring agencies to cover all workers under the *Act*. If locals are considering tabling a more comprehensive proposal please contact Joe Courtney (jcourtney@cupe.ca) for further information.

APPENDIX D: MSPP REQUIRED COLLECTIVE AGREEMENT LANGUAGE

In this Article, the terms used shall have the meanings as described:

- .01 (a) "Plan" means the Multi-Sector Pension Plan
- (b) "Applicable Wages" means the basic straight time wages for all hours worked and in addition
- i) the straight time component of hours worked on a holiday; and
 - ii) holiday pay, for the hours not worked; and
 - iii) vacation pay; and
 - iv) sick pay paid directly by the Employer (but not short term indemnity payments paid by an insurer) which results in the Employee receiving full payment for the hours missed due to illness. Applicable wages includes any sick pay which an Employee is permitted to receive in cash despite not having been absent from the workplace; and
 - v) _____

All other payments, premiums, allowances and similar payments are excluded.

(c) "Eligible Employee" means all employees in the bargaining unit.

- 02 Commencing _____ each Eligible Employee shall contribute for each pay period an amount equal to _____% of Applicable Wages to the Plan. The Employer shall contribute on behalf of each Eligible Employee for each pay period, an amount equal to _____% of Applicable Wages to the Plan.
- 03 The Employee and Employer contributions shall be remitted to the Plan by the Employer within thirty (30) days after the end of the calendar month in which the pay period ends for which the contributions are attributable. The Employer shall remit all contributions in the manner directed by the Administrator of the Plan.
- .04 The Employer agrees to provide to the Administrator of the Plan, on a timely basis, all information required pursuant to the *Pension Benefits Act*, R.S.O. 1990, Ch. P-8, as amended, and *Income Tax Act* (Canada) which the Administrator may reasonably require in order to properly record and process pension contributions and pension benefits. If maintained by the Employer in electronically readable form it shall be provided in such form to the Plan if the Administrator so requests.

For further specificity, the items required for each eligible Employee by Article .04 of the agreement include:

- i) To Be Provided Once Only At Plan Commencement
 - Date of Hire
 - Date of Birth
 - Date of First Contribution
 - Seniority List to include hours from date of hire to Employer's fund entry date (for the purpose of calculating past service credit)
 - Gender

- ii) To Be Provided With Each Remittance
 - Name
 - Social Insurance Number
 - Monthly Remittance
 - Pensionable Earnings
 - Year to Date Contributions
 - Employer portion of arrears owing due to error, or late enrolment by the Employer

- iii) To Be Provided Initially And As Status Changes
 - Full Address
 - Termination Date Where Applicable (MM/DD/YY)
 - Marital Status

- iv) To Be Provided Annually but no later than December 1
 - Current complete address listing

.05 The Employer agrees to be bound by the terms of the Agreement and Declaration of Trust and the rules and regulations of the Plan adopted by the Trustees of the Plan, both as may be amended from time to time. In addition, the Employer agrees to enter into a Participation Agreement with the Trustees of the Plan in the form attached hereto as Schedule A.

OPTIONAL ADDENDUM

The Union acknowledges and agrees that other than making its contributions to the Plan as set out in this Article, the Employer shall not be obligated to contribute towards the cost of benefits provided by the Plan, or be responsible for providing any such benefits.

The Union and the Employer acknowledge and agree that under current pension legislation, and/or regulations, the Employer has no requirement to fund any deficit in the Plan, but is required to contribute only that amount as required by the collective agreement in force between the parties.

It is understood and agreed by the Employer and the Union that should the current pension legislation or regulations be changed so that the Employer's obligation to contribute to the Plan exceeds the amount specified in the collective agreement then in force, the parties will negotiate a method to relieve the Employer of this increased obligation to the extent that any such obligations exceed those which the Employer would have if the Plan were a defined contribution plan.

FOR INTERNAL USE ONLY

**APPENDIX E: MSPP EXPLANATORY NOTES
FOR INCLUSION OF REQUIRED COLLECTIVE AGREEMENT LANGUAGE
(July 2008)**

Required Language	Comments
	<p>General Comments: This language is "required language" which the Plan will accept and is intended to be the minimum the Plan will accept. Some variation is permissible if it enhances the rights of the Plan or the members. Below are comments indicating some areas where this is possible. If the language is changed from the standard language, the consent of the Trustees is required before Plan entry will be accepted.</p>
<p>.01 In this Article, the terms used shall have the meanings as described.</p> <p>(a) "Plan" means the Multi-Sector Pension Plan</p> <p>(b) "Applicable Wages" means the basic straight time wages for all hours worked and in addition:</p> <p style="margin-left: 20px;">i) the straight time component of hours worked on a holiday; and</p> <p style="margin-left: 20px;">ii) holiday pay, for the hours not worked; and</p> <p style="margin-left: 20px;">iii) vacation pay; and</p> <p style="margin-left: 20px;">iv) sick pay paid directly by the Employer (but not short term indemnity payments paid by an insurer) which results in the Employee receiving full payment for the hours missed due to illness. Applicable wages includes any sick pay which an Employee is permitted to receive in cash despite not having been absent from the workplace; and</p> <p style="margin-left: 20px;">v) _____</p> <p>All other payments, premiums, allowances and similar payments are excluded.</p>	<p>The Plan is registered under the Ontario <i>Pension Benefits Act</i> and <i>Income Tax Act (Canada)</i> as plan number 1085653.</p> <p>The Plan will accept a broader definition of wages, but not a narrower one. Thus, it would be acceptable to include more forms of compensation in the definition, such as, for example, overtime, shift premiums, reporting pay, standby pay, call-in pay, any other remuneration paid to the employee. A blank has been left in the form to permit additional categories of remuneration on which contributions must be made. Alternatively, contributions could be required on gross wages.</p>
<p>(c) "Eligible Employee" means all employees in the bargaining unit.</p>	<p>The definition of "eligible employee" may be altered if there are separate agreements for full and part-time employees.</p> <p>Commencement of contributions may be delayed for new employees until they have 500 hours of service.</p>

Required Language	Comments
<p>.02 Commencing _____200___ each Eligible Employee shall contribute for each pay period an amount equal to ___% of Applicable Wages to the Plan. The Employer shall contribute on behalf of each eligible Employee for each pay period, an amount equal to ___% of Applicable Wages to the Plan.</p>	<p>Employees must contribute to the MSPP, but it is permissible to have unequal Employee and Employer contributions provided the Employer's contributions are not less than the Employee's contributions. The recommended minimum combined contribution rate is 4%. The maximum permissible combined contribution rate is 10.5% as the <i>Income Tax Act</i> and regulations limit the amount of benefits an employee can accrue. There is no minimum contribution rate but if the combined contribution rate is less than 8%, past service benefits may be prorated.</p> <p>Contributions to the Plan for a new Employee may start at commencement of employment, but membership in the Plan will not commence until 500 hours of service. At that time, the Employee will get credit for the prior contributions.</p>
<p>.03 The Employee and Employer contributions shall be remitted to the Plan by the Employer within thirty (30) days after the end of the calendar month in which the pay period ends for which the contributions are attributable. The Employer shall remit all contributions in the manner directed by the Administrator of the Plan.</p>	
<p>04 The Employer agrees to provide to the Administrator of the Plan, on a timely basis, all information required pursuant to the <i>Pension Benefits Act</i>, R.S.O. 1990, Ch. P-8, as amended, and <i>Income Tax Act</i> (Canada) which the Administrator may reasonably require in order to properly record and process pension contributions and pension benefits. If maintained by the Employer in electronically readable form it shall be provided in such form to the Plan if the Administrator so requests.</p>	<p>This information is necessary to allow the Plan to be properly administered.</p> <p>The Plan has adopted a Privacy Policy which the Administrator will make available to the Employer and Union if they request.</p>

Required Language	Comments
<p>For further specificity, the items required for each eligible Employee by Article .04 of the agreement include:</p> <ul style="list-style-type: none"> i) <u>To Be Provided Once Only At Plan Commencement</u> Date of Hire Date of Birth Date of First Contribution Seniority List to include hours from date of hire to Employer's fund entry date (for the purpose of calculating past service credit) Gender ii) <u>To Be Provided With Each Remittance</u> Name Social Insurance Number Monthly Remittance Pensionable Earnings Year to Date Contributions Employer portion of arrears owing due to error, or late enrolment by the Employer iii) <u>To Be Provided Initially And As Status Changes</u> Full Address Termination Date Where Applicable (MM/DD/YY) Marital Status iv) <u>To Be Provided Annually But No Later Than December 31</u> Current Complete Address Listing 	
<p>.05 The Employer agrees to be bound by the terms of the Agreement and Declaration of Trust and the rules and regulations of the Plan adopted by the Trustees of the Plan, both as may be amended from time to time. In addition, the Employer agrees to enter into a Participation Agreement with the Trustees of the Plan in the form attached hereto as Schedule A.</p>	<p>This is necessary to have the Employer acknowledge the role of the Trustees in administering the Plan.</p>

Required Language	Comments
<p>The Union acknowledges and agrees that other than making its contributions to the Plan as set out in this Article, the Employer shall not be obligated to contribute towards the cost of benefits provided by the Plan, or be responsible for providing any such benefits.</p> <p>The Union and the Employer acknowledge and agree that under current pension legislation, and/or regulations, the Employer has no requirement to fund any deficit in the Plan, but is required to contribute only that amount as required by the collective agreement in force between the parties.</p> <p>It is understood and agreed by the Employer and the Union that should the current pension legislation or regulations be changed so that the Employer's obligation to contribute to the Plan exceeds the amount specified in the collective agreement then in force, the parties will negotiate a method to relieve the Employer of this increased obligation to the extent that any such obligations exceed those which the Employer would have if the Plan were a defined contribution plan.</p>	<p>OPTIONAL ADDENDUM If an employer wants further assurances that its obligation to contribute to the Plan are limited to the amount set out in the collective agreement, the following may be added:</p>

APPENDIX F: FACT SHEET: BARGAINING FLAT RATE WAGE INCREASES, November 2008

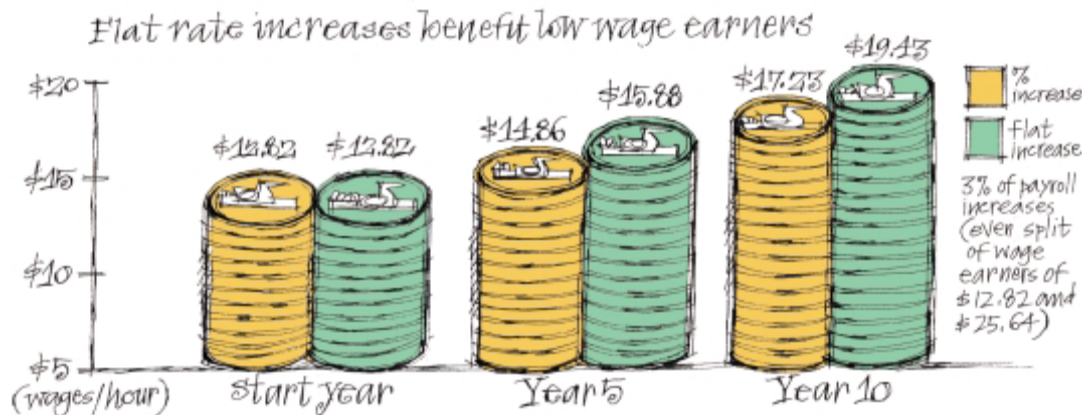
Eliminating the wage gap in earnings is key to improving the economic situation of CUPE members, the majority of whom are women. Lower paid workers and classifications act as a downward drag on everybody's wages, providing employers with arguments to keep overall wage rates low. This fact sheet focuses on two methods of reducing and eventually eliminating the wage gap in earnings. Those two methods are (1) negotiating flat rate wage increases and (2) eliminating increment steps in our pay grids.

Bargain Flat Rate Increases

Delegates to the 1981 CUPE National Convention enthusiastically passed a resolution supporting across-the-board cents per hour (or dollar) wage increases, rather than percentage increases. Percentage increases widen the wage gap because they give larger increases to those at the top wage scale. For example:

- A worker earning \$40,000 a year who gets a 5% wage increase will get a pay hike of \$2,000. But a worker earning \$20,000 a year will only receive an increase of half that amount: \$1,000, based on a 5% settlement. Over time, the difference in wages grows and the wage gap widens between the lowest and highest paid.

An important first step is to negotiate wage increases which give each worker the same cents-per-hour wage increase – also known as a flat rate wage increase. This stops the wage gap from widening between the lowest and highest paid. Unlike percentage wage increases that favour higher paid workers, as the above example shows, flat rate increases benefit lower wage earners.



The table shows that a flat wage rate increase puts more money into the pockets of low wage earners:

- A woman making \$12.82 an hour would make \$14.86 after five years of 3% wage increases.

- But if that 3% increase had been converted to a flat wage increase for all workers, this woman would make almost \$1 more an hour after five years than she would with the percentage increase.
- After 10 years, the advantage of the flat rate increase is even greater, raising her hourly wage to \$19.43, rather than the \$17.23 she'd be making with a 3% increase.

Flat rate wage increases maintain the wage differential between classifications throughout the wage grid. All wages move up by the same amount, by the same flat rate. Percentage wage increases, on the other hand, increase the top rates more than the bottom rates and has the effect of increasing the wage differential amongst classifications on the wage grid.

Increments Aren't Wage Increases

An incremental wage system provides salary increases based on how long you've stayed on the job. It is also known as a step or increment system. There are variations on how many steps — or how many years — it takes a worker to reach the top of the increment scale, depending on the collective agreement.

Lengthy increment systems are more common for female job classes, such as clerical jobs, than for jobs typically held by men. And since lengthy increment systems are usually found in collective agreements covering a high proportion of women workers, or only apply to female job classes, their effects are discriminatory.

This system forces artificially low wages by stretching the period employees have to work until they're making the job's full rate. This annual loss is compounded, or continues to add up, over the years it takes to work your way up through the wage grid. Increments are not a reward for service. They are simply a way to withhold the proper rate for the job.

Are you losing?

If you follow these steps you can figure out how much money you're losing under your increment system if one exists in your collective agreement.

1. Look at the wage grid in your collective agreement. Does it have a different wage rate, depending on the years of experience in the classification, like this example?

<u>Classification</u>	<u>Hourly Wage Rate</u>
School Secretary	
Year 1	\$9.23
Year 2	\$10.08
Year 3	\$10.53
Year 4	\$10.98
Year 5	\$11.43
Year 6-10	\$11.89
Year 11	\$12.37

2. If so, start by calculating the loss in each year. Take the difference between the rate paid for Year 1 and the job (top) rate, which in this case is in Year 11. Here the difference amounts to \$3.14 on an hourly basis ($\$12.37 - \$9.23 = \$3.14$).
3. Multiply the hourly amount by the number of hours worked weekly. In this case, multiply by 30 hours a week ($\$3.14/\text{hour} \times 30 \text{ hours/week} = \$94.20/\text{week}$).
4. Then multiply by the number of weeks worked per year. In most cases it would be by 52 weeks for the year. In this case, these employees work 40 weeks a year ($\$94.20/\text{week} \times 40 \text{ weeks/year} = \$3,768 \text{ a year}$).

This annual loss is compounded, or continues to add up, over the years it takes to work your way up through the wage grid. Over the 11 years of this particular wage increment system, a school secretary loses more than **\$55,000**.

When general wage increases are low or non-existent, workers look forward to a pay increase through an increment. But we need to put our energies into bargaining decent general wage increases rather than relying on an increment increase for some workers.

Overall, increments amount to a big loss for workers and big savings for employers. They can also be an incentive for employers to encourage turnover, since replacing a long service employee with a new one will lower the wage costs. Increments undermine the principle that workers should be paid for what they actually do. It is clearly unfair to pay two workers different wage rates for performing the same job. Yet under an increment system, the employer does exactly that. Different rates are paid to different workers according to whether they are considered to be loyal employees. This is contrary to all principles of natural justice and basic trade union goals.

Source: CUPE's *Up With Women's Wages* bargaining kit.

APPENDIX G: CUPE VIOLENT INCIDENT REPORT



Health and Safety Violent Incident Report

Staff who have been victims of violence at work should complete this report as soon as possible. Upon completion, send **WHITE** copy to your employer, the **YELLOW** to your Joint Health and Safety Committee and the **PINK** to your CUPE Local President. You keep the **GREEN** copy.

PLEASE PRINT AND PRESS FIRMLY ON A HARD SURFACE AS FOUR COPIES ARE BEING MADE.

Identifying Information

Name: _____
 CUPE Local: _____
 Job Title: _____
 Employer: _____
 Department/Section: _____

Medical attention or First Aid obtained? Yes No
 WCB forms completed? Yes No
 Police called? Yes No
 Reported to supervisor? Yes No
 Reported to employer? Yes No
 Action Taken: _____

Assailant

Patient Resident Client Passenger
 Student Visitor Supervisor
 Other (specify): _____

Name (if known): _____
 Age: _____

Other Information

Was the assailant involved in any previous violent incidents with staff? Yes No
 Are there any measures in place to prevent a similar incident? Yes No

Please provide any other information you think is relevant:

Incident and Injury Information

Date of incident: _____
 Time: AM PM
 Type of assault: Verbal Threat
 Struck Kicked
 Bitten Scratched
 Pushed Sexual
 Bullying Racial
 Other (specify): _____

White: Employer
Yellow: Joint Health and Safety Committee
Pink: Local Union
Green: Employee



Canadian Union of Public Employees – Health and Safety Branch cupe.ca



APPENDIX H: WORKPLACE VIOLENCE LANGUAGE CHECKLIST

Several rounds of successful coordinated bargaining amongst CUPE's ACL locals in Ontario have resulted in major gains at the bargaining table, including marked improvements in achieving comprehensive workplace violence provisions. There are approximately 60 ACL locals in Ontario and consequently a variety of negotiated workplace violence language. However, it is vital that we hit certain key benchmarks in bargaining. This checklist has been developed to help you achieve those benchmarks at the bargaining table. Please examine the workplace violence language contained in your agreement and use this checklist to identify provisions that are absent in your agreement and areas that need improvement.

Workplace Violence Language Checklist

- Respectful Workplace:** a clear statement of principle which states that the Union and the Employer have a joint responsibility to ensure a workplace free from violence (refer to 7.XX.01).
- Employer commitment to reduce incidents of workplace violence:** a clear statement of principle which states that the Employer will consult with the Union to reduce the potential for violence in the workplace (refer to 7.XX.02).
- Compliance with Health and Safety Legislation:** a clear statement to ensure that the Employer complies with all applicable health and safety legislation and regulations, as may be amended from time to time (refer to 7.XX.03).
- Definition of Workplace Violence:** ensure your language is comprehensive and includes domestic violence, stalking, and bullying. Also ensure your language makes clear that incidents of workplace violence can occur at off-site workplace locations including the homes of clients (refer to 7.XX.04).
- Establishment of Joint Health and Safety Committee:** provides for the establishment of a joint committee as required under the *Occupational Health and Safety Act* (refer to 7.XX.05).
- Development of Violence Policies and Procedures:** language that obligates the Employer and the Union to jointly develop a policy on workplace violence with timelines for meetings and effective date of the policy (refer to 7.XX.06).
- Violence Prevention Measures:** language that obligates the Employer to develop and maintain procedures to reduce the likelihood of violent incidents to the lowest possible level (refer to 7.XX.07).
- Workplace Hazard Assessment Process:** provides a process for the conduction of an assessment when a potential for injury from violence may be present (refer to 7.XX.08).

- ❑ **Process to Handle Incidents of Workplace Violence:** provides a process for the handling of violent incidents including transfer of the file or the worker and the need for additional staff (refer to 7.XX.09).
- ❑ **Refusal to Work:** language that allows the worker to refuse to work in situations where s/he has reason to believe her/his health and/or safety is in danger (refer to 7.XX.10).
- ❑ **Duty to Inform and Training:** language that obligates the Employer to inform workers who may be exposed to the potential of violence, and provide employee training (refer to 7.XX.11).
- ❑ **Damage to Personal Property:** language that obligates the Employer to compensate the Employee for damages to personal belongings arising from incidents of violence (refer to 7.XX.12).
- ❑ **Injury Pay:** language to ensure injured workers receive regular compensation in the event they are sent home or to a hospital due to their injuries (refer to 7.XX.13).
- ❑ **Transportation:** language to ensure that in the event an injured worker requires hospitalization the Employer shall pay for the cost of transportation (refer to 7.XX.14).
- ❑ **Reporting:** language that outlines a detailed process for the handling of potential hazards related to violence, including a process for co-teaming, use of the CUPE Violent Incident Report, and an investigation process (refer to 7.XX.15).
- ❑ **CUPE National Representative:** language to ensure that a CUPE National Representative can attend meetings of the joint health and safety committee (refer to 7.XX.16).