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*Federal Public Sector
Labour Relations and
Employment Board Act and
Federal Public Sector
Labour Relations Act*



Before a panel of the
Federal Public Sector
Labour Relations and
Employment Board

BETWEEN

PUBLIC SERVICE ALLIANCE OF CANADA

Bargaining Agent

and

TREASURY BOARD

Employer

Indexed as

Public Service Alliance of Canada v. Treasury Board

In the matter of a policy grievance referred to adjudication

Before: Adrian Bieniasiewicz, a panel of the Federal Public Sector Labour Relations and Employment Board

For the Bargaining Agent: Amarkai Laryea, counsel

For the Employer: Nadine Rizk, counsel

Decided on the basis of written submissions,
filed February 7, April 4, and April 23, 2025.
(FPSLREB Translation)

REASONS FOR DECISION

(FPSLRB TRANSLATION)

I. Overview

[1] This policy grievance concerns the compensation of teachers subject to a 12-month pay plan (the “ED-EST teachers”) and who are part of the Education and Library Science group (“EB group”). This group includes over 1,000 employees responsible for teaching, educational support and library services in the federal government.

[2] More specifically, the Public Service Alliance of Canada, the bargaining agent representing the EB group, disagrees with the Treasury Board’s interpretation and application of the transitional provisions for the implementation of the new harmonized pay grid. It alleges that the interpretation adopted by the employer is unjust and inequitable for some teachers affected by the transitional provisions as it does not take into account their years of teaching experience. This has a negative impact on their salary.

[3] The bargaining agent is no longer pursuing the argument based on discrimination raised in the grievance.

[4] The employer argues that the wording of the transitional provisions is clear and unambiguous and that it is interpreting and applying it in accordance with the wording of the collective agreement. Moreover, the bargaining agent knew that the transitional provisions could result in some teachers being placed at a lower pay rate compared to that of new employees with fewer years of experience. It still accepted them.

[5] For the following reasons, I find that the employer is interpreting and applying the relevant transitional provisions correctly. I therefore deny the policy grievance.

II. Motion for a confidentiality order

[6] The bargaining agent requested that the employee questionnaires under Tab 9 of its book of documents be sealed to protect their personal email addresses and telephone numbers. In support of its request, the bargaining agent argued that the potential harm and negative effects on the privacy of these employees outweigh the interest in publishing the proceedings. The employer did not object to the request.

[7] In *Sherman Estate v. Donovan*, 2021 SCC 25, the Supreme Court of Canada established a three-part test to guide the exercise of discretion to restrict court openness. That test reads as follows:

- (1) court openness poses a serious risk to an important public interest;
- (2) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and,
- (3) as a matter of proportionality, the benefits of the order outweigh its negative effects.

[8] I am of the view that making public the personal phone numbers and email addresses of employees whose questionnaires have been submitted as evidence does pose a serious risk to an important public interest, namely the protection of their privacy. Moreover, this personal information is of no use in understanding the proceedings related to the policy grievance before me.

[9] However, I am not of the view that sealing the questionnaires is necessary to prevent a serious risk of a breach of privacy for these employees. I am of the view that another, less restrictive measure, such as redacting the information in question, is a reasonable measure to mitigate this risk.

[10] Finally, as a matter of proportionality, the benefits of an order providing for the redaction of personal phone numbers and email addresses in the questionnaires outweigh its negative effects. As I have already stated, this information is of no use in resolving the issue in dispute.

[11] In light of the above, the bargaining agent will have 30 days from the date of this decision to provide the Federal Public Sector Labour Relations and Employment Board (“the Board”) with redacted copies of the questionnaires under Tab 9 of its book of documents. Only the personal phone numbers and email addresses of employees will need to be redacted.

[12] The questionnaires will be sealed for a period of 30 days from the date of this decision, or until the delivery of the redacted copies, whichever comes first. Upon receipt of those copies, the Board’s registry will replace the questionnaires with the redacted copies.

III. Summary of the evidence

[13] The following summary of the relevant facts is based on the joint statement of facts submitted by the parties.

A. Background

[14] As part of the negotiation of the collective agreement for the EB group that expired in 2007, the employer and the bargaining agent agreed to conduct a comparative study. Its purpose was to compare the pay of ED-EST elementary and secondary teachers whose work year extends over 12 months with that of elementary and secondary teachers in the provinces where ED-EST teachers work. The agreement to complete that study was renewed during the negotiation of the collective agreements that expired in 2011 and 2014.

[15] During the negotiation of the collective agreement that expired in 2018, the parties agreed to establish a joint committee. It was tasked with conducting analyses and studies to determine the rate of pay that would serve as a starting point for creating a new pay grid with a national rate and, if applicable, propose wage adjustments.

[16] In April 2019, the joint committee reached an agreement on a recommendation concerning national pay rates for ED-EST teachers. In January 2020, the Public Interest Commission recommended that the new national rates of pay for ED-EST teachers be included in the new collective agreement.

B. Negotiation of transitional provisions

[17] During the summer of 2020, the parties continued their negotiations. On July 15, 2020, the employer submitted a global offer to the bargaining agent. This included, in particular, the transition of the ED-EST teachers. Under the offer, the ED-EST teachers who were to transition to the new pay grid would be paid at the rate closest to, without a reduction of pay, to the salary they were paid on the day prior to the effective date of the transitional provisions. To that end, the employer proposed the following wording:

...

[...]

2. Notwithstanding Pay Note 6,
An employee is entitled to be paid

2. Nonobstant la note sur la
rémunération no. 6, *Etout*

at the rate of pay on the pay grid for the appropriate region set forth in Schedules "A1", "A1-1" or "A1-2" as determined by his or her education, professional certification and experience. In addition, employees at these levels are entitled to the appropriate allowance provided in Article 49.

employé-e a le droit de toucher le taux de rémunération prévu sur la grille salariale de la région appropriée figurant dans les annexes « A1 », « A1-1 » et « A1-2 » d'après son niveau d'instruction, ses attestations professionnelles et son expérience. De plus, les employé-e-s placés à ces niveaux ont droit à l'indemnité appropriée prévue à l'article 49.

...

[...]

6. Transitional provision

6. Dispositions transitoires

The restructure of regional ED-EST 10 month annual rates of pay to national ED-EST 12-month rates of pay for teachers in Correctional Service of Canada, the Department of National Defence Canada or the Department of Fisheries and Oceans, will be effective according to the dates determined by clause 2a)(ii) of the new Appendix "K" - Memorandum of Understanding with respect to Implementation of the Collective Agreement. Notwithstanding years of experience, eligible employees are to be paid at the rate in the new pay grid that is closest to without a reduction of pay to the salary they were paid on the day prior to the effective date. After this initial movement to the new pay rates, an employee will continue their progression through teaching experience levels as per Pay Note 19.

La restructuration des taux de rémunération annuels régionaux ED EST de 10 mois en taux de rémunération nationaux ED-EST de 12 mois pour les enseignants-es du Service correctionnel du Canada, du ministère de la Défense nationale du Canada ou du ministère des Pêches et des Océans, entrera en vigueur aux dates déterminées conformément au paragraphe 2a)(ii) du nouvel Appendice « K » - Protocole d'entente concernant la mise en œuvre de la convention collective. Nonobstant les années d'expérience, les employés-es admissibles doivent être rémunérés au taux de la nouvelle grille salariale s'approchant le plus, sans réduction de salaire, du salaire qu'ils-elles recevaient le jour précédant la date d'entrée en vigueur. Après ce premier mouvement aux nouveaux taux de rémunération, l'employé-e poursuivra sa progression en fonction des années d'expérience d'enseignement, conformément à la note sur la rémunération 19.

~~Notwithstanding Pay Note 2, an employee on a twelve (12) month work year in Correctional Service of Canada, Department of National Defence Canada or Department of Fisheries and Oceans is entitled to be paid for services rendered at rates of pay which are higher by twenty per cent (20%) than the rates of pay on the appropriate education experience grid set forth in Schedule~~

~~Nonobstant la note sur la rémunération no. 2, tout employé-e dont l'année de travail est répartie sur 12 mois au Service correctionnel du Canada, au ministère de la Défense nationale du Canada ou au~~

~~“A1”, and if applicable, the allowances set forth in Article 49.~~

~~ministère de Pêches et Océans à le droit de toucher, pour services rendus, des taux de rémunération supérieurs de vingt pour cent (20 %) aux taux de rémunération prévus sur la grille d'instruction et d'expérience appropriée figurant à l'annexe « A1 » et, le cas échéant, les indemnités indiquées à l'article 49.~~

...

[...]

[Emphasis in the original]

Note: The proposed additions to the collective agreement are in bold; the text to be removed is indicated in strikethrough.

[18] Given the financial implications of this transition, the employer proposed a 0.95% increase in the pay rate for ED-EST teachers in the third year of the agreement (2020), instead of 1.35% as was proposed for the rest of the bargaining unit.

[19] Also, given that the wording of Pay Note 2 existed in the collective agreement that expired in 2018, the employer added the phrase “Notwithstanding Pay Note 6.” Its purpose was to clarify that the transitional provisions would only apply to employees in position at the time of the transition to the new pay grid. Pay Note 2 would continue to apply to new employees.

[20] In response to the employer’s offer, the bargaining agent submitted a counter-proposal on July 18, 2020. It reads as follows:

[Translation]

6. Transitional provision

6. Disposition transitoire

*The restructure of regional ED-EST 10-month annual rates of pay to national ED-EST 12-month rates of pay for teachers in Correctional Service of Canada, the Department of National Defence Canada or the Department of Fisheries and Oceans, will be effective **July 1, 2018. according to the dates determined by clause 2a)(ii) of the new Appendix “K” – Memorandum of Understanding with respect to Implementation of the Collective***

*La restructuration des taux de rémunération annuels régionaux ED EST de 10 mois en taux de rémunération nationaux ED-EST de 12 mois pour les enseignants-es du Service correctionnel du Canada, du ministère de la Défense nationale du Canada ou du ministère des Pêches et des Océans, entrera en vigueur le **1er juillet 2018. aux dates déterminées conformément au paragraphe 2a)(ii) du nouvel Appendice « K » – Protocole***

Agreement. Eligible employees are to be ~~paid~~ **placed on the national grid at the a rate that corresponds to their years of teaching experience and level of education. in the new pay grid that is closest to without a reduction of pay to the salary they were paid on the day prior to the effective date.** After this initial movement to the new pay rates, an employee will continue their progression through teaching experience levels as per Pay Note 19. Notwithstanding **this restructure date, implementation of new rates of pay will proceed according to the timelines determined by clause 2a)(ii) of the New Appendix “K” - Memorandum of Understanding with Respect to Implementation of the Collective Agreement.** ~~years of experience,~~

~~d’entente concernant la mise en œuvre de la convention collective.~~ Les employés-es admissibles doivent être ~~rémunérés~~ **placés sur la grille nationale au à un taux de la nouvelle grille salariale s’approchant le plus, sans réduction de salaire, du salaire qu’ils-elles recevaient le jour précédant la date d’entrée en vigueur correspondant à leurs années d’expérience en enseignement et à leur niveau d’éducation.** Après ce premier mouvement aux nouveaux taux de rémunération, l’employé-e poursuivra sa progression en fonction des années d’expérience d’enseignement, conformément à la note sur la rémunération 19. Nonobstant **cette date de restructuration, la mise en œuvre des nouveaux taux de rémunération se fera selon les échéanciers fixés par la clause 2a)(ii) du nouvel appendice « K » - Protocole d’entente relatif à la mise en œuvre de la convention collective.** ~~les années d’expérience,~~

Note: The changes proposed by the bargaining agent are in bold and strikethrough.

[21] The negotiations continued. The employer presented another option in response to the counter-proposal from the bargaining agent, while maintaining the same approach for the transition of ED-EST teachers to the new pay grid (i.e., they would be paid at the rate of the new grid closest to, without a reduction of pay, the salary they were paid on the day prior to the effective date of the transitional provisions). However, the employer agreed to enhance the economic increase. More specifically, it offered an economic increase of 1.35% instead of 0.95% in the third year of the agreement (2020) in exchange for the bargaining agent’s acceptance of the overall final offer as presented by the employer.

[22] At the time of the negotiation and signing of the collective agreement that expired on June 30, 2021 (“the 2021 collective agreement”), the bargaining agent was aware of the potential consequences of the transitional provisions on the salaries of the affected employees. It raised them with the employer. Indeed, according to the *Federal Public Sector Labour Relations and Employment Board Act* and *Federal Public Sector Labour Relations Act*

wording of transitional provision 6 proposed by the employer, the pay rate for new employees could be higher than that of some employees in position at the time of the transition and having more years of experience.

[23] On July 23, 2020, the employer contacted the bargaining agent to present its final global offer. The employer maintained the wording of Pay Notes 2 and 6, as proposed to the bargaining agent on July 15, 2020 (see paragraph 17 above).

[24] On the same day, the parties reached a tentative agreement, including a tentative agreement on the harmonized pay grid for ED-EST teachers. On August 6, 2020, the bargaining agent distributed the ratification kit to its members. With respect to the pay rate for ED-EST teachers, the ratification kit stated the following:

12-month teacher national rates of pay

*12-month teachers will be placed in a new national pay grid with new rates of pay recommended by a joint committee in April 2019. Rates of pay will be subject to the general economic increases negotiated in this round. **Employees will be placed into the new grid at the rate of pay that is closest, but not lower, to their rate of pay prior to implementation of the new grid.** The new rates of pay will come into effect as of July 1, 2020.*

[Emphasis added]

[25] On November 6, 2020, the parties signed the 2021 collective agreement.

IV. Policy grievance

[26] After migrating to the new harmonized pay grid, some employees informed the bargaining agent that the application of the transitional provisions led to an unfair outcome for certain ED-EST teachers who were in position at the time of the transition. According to them, the fact that years of teaching experience were not taken into account in the transition to the new pay grid meant that the pay rate for some ED-EST teachers was now lower than that of new employees with fewer years of teaching experience. According to them, this is unjust and inequitable.

[27] This is what prompted the bargaining agent to file this policy grievance. In summary, the bargaining agent argued in the grievance that the employer's application of the transitional provisions in Schedule B of Appendix A of the tentative agreement is not consistent with a comprehensive view of the collective agreement and the

express wording of Article 6 of the transitional provisions and related articles. It is also discriminatory, unjust and inequitable.

[28] The relevant provisions read as follows:

...

2. Notwithstanding Pay Note 6, an employee is entitled to be paid at the rate of pay on the pay grid for the appropriate region set forth in Schedules "A1", "A1-1" or "A1-2" as determined by his or her education, professional certification and experience. In addition, employees at these levels are entitled to the appropriate allowance provided in Article 49.

[...]

2. Nonobstant la note sur la rémunération no. 6, tout employé-e a le droit de toucher le taux de rémunération prévu sur la grille salariale de la région appropriée figurant dans les annexes « A1 », « A1-1 » et « A1-2 » d'après son niveau d'instruction, ses attestations professionnelles et son expérience. De plus, les employé-e-s placés à ces niveaux ont droit à l'indemnité appropriée prévue à l'article 49.

...

6. Transitional provision

The restructure of regional ED-EST 10-month annual rates of pay to national ED-EST 12-month rates of pay for teachers in Correctional Service of Canada, the Department of National Defence Canada or the Department of Fisheries and Oceans, will be effective according to the dates determined by clause 2a)(ii) of the new appendix "K" - Memorandum of Understanding with respect to Implementation of the Collective Agreement. Notwithstanding years of experience, eligible employees are to be paid at the rate in the new pay grid that is closest to without a reduction of pay to the salary they were paid on the day prior to the effective date. After this initial movement to the new pay rates, an employee will continue their progression through teaching experience levels as per Pay Note 19.

[...]

6. Dispositions transitoires

La restructuration des taux de rémunération annuels régionaux ED-EST de 10 mois en taux de rémunération nationaux ED-EST de 12 mois pour les enseignants-es du Service correctionnel du Canada, du ministère de la Défense nationale du Canada ou du ministère des Pêches et des Océans, entrera en vigueur aux dates déterminées conformément au paragraphe 2a)(ii) du nouvel appendice « K » - Protocole d'entente concernant la mise en œuvre de la convention collective. Nonobstant les années d'expérience, les employés es admissibles doivent être rémunérés au taux de la nouvelle grille salariale s'approchant le plus, sans réduction de salaire, du salaire qu'ils ou elles recevaient le jour précédant la date d'entrée en vigueur. Après ce premier mouvement aux nouveaux taux de rémunération, l'employé-e poursuivra sa progression en fonction des années d'expérience

d'enseignement, conformément à la note sur la rémunération 19.

...

[...]

19. Changes in rates of pay after appointment

a. After appointment, an employee on a school year will be granted annual increments at commencement of the school year provided the employee has been on duty at least six (6) months since the last increment or since appointment and has given satisfactory service.

b. Subject to satisfactory performance of duties, an employee on a twelve (12) month work year will be granted annual increments on the anniversary date of an employee's most recent appointment.

c. It is up to the employee to submit to the Employer the documents proving that he or she has higher educational qualifications than those of the education level in which he or she is being paid, within six (6) months following the date of issuance of the official transcript of such additional qualifications. The employee shall be granted retroactive pay, if he or she meets the requirements, either from the date of issuance of the official transcript of additional qualifications if it is submitted within six (6) months or from the date the official transcript was submitted to the Employer, in all other cases.

...

19. Modifications des taux de rémunération après la nomination

a. Après la nomination, un employé-e qui dont l'année de travail est une année scolaire se verra accorder des augmentations annuelles au début de l'année scolaire à la condition qu'il ou elle ait travaillé pendant au moins six (6) mois depuis la dernière augmentation ou depuis sa nomination et que son travail ait été satisfaisant.

b. Sous réserve d'un rendement satisfaisant, un employé-e dont l'année de travail est répartie sur douze (12) mois se verra accorder des augmentations annuelles à la date d'anniversaire de sa nomination la plus récente.

c. Il revient à l'employé-e de soumettre à l'employeur les documents prouvant qu'il ou elle a un niveau de scolarisation supérieur à celui du niveau auquel il ou elle est rémunéré, dans les six (6) mois suivant la date d'émission du relevé de notes officiel de cette scolarisation supplémentaire. L'employé-e se verra accorder une rémunération rétroactive dans le cas où il ou elle satisfait aux exigences, soit à compter de la date d'émission du relevé de notes officiel s'il est soumis dans un délai de six (6) mois, soit à compter de la date de soumission du relevé de notes officiel à l'employeur dans tous les autres cas.

[...]

[29] The employer dismissed the policy grievance on the grounds that it is interpreting and applying the provisions of the collective agreement correctly. It was also of the view that the provisions are not discriminatory.

V. Summary of the arguments

A. For the bargaining agent

[30] Before the Board, the bargaining agent abandoned its argument based on discrimination.

[31] The new national pay rates for ED-EST teachers incorporated in the 2021 collective agreement are as follows:

Teaching experience	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6
1	52,648	56,781	61,842	69,824	74,965	80,367
2	55,732	59,561	65,183	73,335	78,902	84,143
3	58,816	62,333	68,521	76,846	82,829	87,928
4	61,896	65,104	71,867	80,359	86,766	91,704
5	64,975	67,876	75,205	83,873	90,700	95,492
6	68,056	70,649	78,545	87,388	94,635	99,267
7	71,151	73,421	81,886	90,899	98,577	103,046
8	74,234	76,206	85,225	94,415	102,506	106,826
9	n/a	78,948	88,568	97,932	106,445	110,610
10	n/a	n/a	n/a	101,446	110,378	114,385

[32] ED-EST teachers are placed on the grid based on their level of education and teaching experience. For example, an employee who has a teaching certificate will be placed at Level 1. An employee who, in addition to a teaching certificate, has three additional years of teacher training will be placed at Level 4. A teacher who has a teaching certificate and five additional years of teacher training will be placed at the highest level, which is Level 6 (see explanatory note 8 on page 136 of the 2021 collective agreement).

[33] In addition, ED EST teachers are placed on a scale of 1 to 10 in the “teaching experience” column on the left side of the grid based on their teaching experience. With each year that a teacher teaches, their years of experience increase until they reach the final level, Level 10, the maximum allowed.

[34] According to the bargaining agent, the current implementation of the transitional measures creates inequities for some ED-EST teachers. This happens

because, by not taking into account the years of experience of employees who transitioned to the new pay grid, a new employee with the same level of education and teaching experience may be placed at a higher pay level than the employee who transitioned. As a result, two employees with the same experience and education could be paid differently. More importantly, it is the employee with the greater seniority who ends up being the less well paid.

[35] According to an internal survey conducted by the bargaining agent, this scenario has become a reality for some employees in the bargaining unit.

[36] The bargaining agent suggests that Pay Note 6 (i.e., the transitional provisions) should be interpreted in a way that allows the affected employees to advance on the new pay grid based on their years of teaching experience, rather than simply moving to the next level in the “teaching experience” column on the anniversary date of their appointment, as suggested by the employer based on Pay Note 19(b).

[37] According to the bargaining agent, this interpretation would allow employees to be placed on the pay grid at a level that corresponds to their level of education and years of teaching experience. Moreover, it respects the spirit of the collective agreement and the objective of the national grid.

[38] The bargaining agent argues that the clauses of a collective agreement must be interpreted in the context of the collective agreement as a whole and that effect must be given to every word.

[39] The employer’s interpretation of the transitional provisions undermines the terms of payment for employees set out in the collective agreement, placing some employees at a lower level than what their qualifications and actual experience would warrant.

[40] Teachers should be compensated based on their level of education, professional certifications and experience. This was always the basis of Pay Note 2 of the previous collective agreements.

[41] At first glance, Pay Note 6 seems to indicate an exception to this general principle. It states that employees will be paid at the rate on the new grid that is closest to, without a reduction of pay, the salary they were paid on the day prior to the effective date. However, once placed on the new grid, in accordance with Pay Note 6,

these employees should continue their progression based on their level of education and their years of teaching experience.

[42] The national pay grid was created to level the playing field for teachers who are paid differently depending on the region. The collective agreement should be interpreted in a way that achieves this objective and not in a way that creates further disparities among employees.

[43] The current interpretation of Pay Notes 6 and 19 creates wage disparities between employees with the same level of education, the same professional certifications and the same experience. These disparities increase year after year until the employee reaches the top of the pay scale.

[44] This situation gives rise to an anomaly. Long-term employees may be penalized compared to those who were hired more recently. The fundamental basis of the collective agreement for teachers is that they must be compensated based on their teaching experience and education.

[45] The employer's interpretation of Pay Note 6 devalues the competencies and contributions of employees. They will be underpaid until they reach the levels corresponding to their teaching experience and education. They will earn less over time due to slower progression. This will result in cumulative financial losses, which could even affect the pensions of those who are about to retire.

[46] According to the bargaining agent, the transition to the new pay grid should be as follows:

- (1) Employees are placed on the new grid at the level corresponding to the salary closest to theirs (immediately prior to the effective date), without a reduction of pay;
- (2) Once placed on the grid, their progression is guided by Pay Note 19 based on their teaching experience and education.

B. For the employer

[47] This policy grievance concerns the interpretation and application of the articles of the 2021 collective agreement with respect to the compensation of ED-EST teachers. The parties disagree in particular about the interpretation and application of the transitional provisions found in Pay Note 6.

[48] When interpreting a collective agreement, the fundamental objective is to identify the intent of the parties who entered into it. This must be done in accordance with the provisions expressly set out in the collective agreement. There is a presumption that the parties meant what they said.

[49] Words must be given their ordinary and common meaning unless an interpretation leads to absurdity or is inconsistent with the collective agreement as a whole.

[50] The Board recognizes that when the wording of a collective agreement is clear, it must be applied even if it may lead to an unfair result. Moreover, a requested monetary benefit must have been clearly and expressly set out in the collective agreement.

[51] In this case, the wording of the transitional provisions describing the transition of employees to the new grid is precise, and the intent of the parties is clear. Pay Note 6 states that employees will be placed at the level or rate of pay that is closest to, without a reduction of pay, the rate they were paid on the day before the effective date of the transitional provisions.

[52] Pay Note 6 specifically states that the years of experience of eligible employees will not be considered in their placement on the new pay grid (i.e., to determine their new pay rate).

[53] With respect to their progression on the grid in question, the transitional provisions explicitly state that, once placed on it, their progression will continue “through teaching experience levels as per Pay Note 19.” According to Pay Note 19(b), employees will be entitled to an annual increment on the anniversary date of their most recent appointment:

...	[...]
<i>b. Subject to satisfactory performance of duties, an employee on a twelve (12) month work year will be granted annual increments on the anniversary date of an employee's most recent appointment.</i>	<i>b. Sous réserve d'un rendement satisfaisant, un employé-e dont l'année de travail est répartie sur douze (12) mois se verra accorder des augmentations annuelles à la date d'anniversaire de sa nomination la plus récente.</i>
...	[...]

[54] This wording existed in previous versions of the collective agreement and was not changed. Accordingly, there is nothing to suggest that the parties intended to change the way employees have always progressed on the pay grid.

[55] According to the employer, the interpretation proposed by the bargaining agent would result in placing the employee on the new pay grid at the level closest to, without a reduction of pay, their rate on the effective date of the transitional provisions. It would then allow the employee to renegotiate his or her position on the grid to acknowledge years of experience. This interpretation contradicts the clear and unambiguous wording of the transitional provisions in Pay Note 6 and the way Pay Note 19 has been applied to the EB group for several years.

[56] Moreover, the interpretation proposed by the bargaining agent would lead to an absurd result. The employer's global offer was based on a fixed pay increase for the entire bargaining unit. If the Board accepts the bargaining agent's interpretation, the employer would be in the impossible position of readjusting the salaries of ED-EST teachers despite what was negotiated.

[57] The monetary benefit that the bargaining agent is requesting is not provided for in the 2021 collective agreement.

[58] Implementation of the transitional provisions did not result in an unfair outcome. Moreover, at the time of the negotiations, the bargaining agent knew that the application of the transitional provisions would result in some employees possibly being placed at a lower pay rate than that of new employees with fewer years of experience. Despite this, the bargaining agent accepted the wording proposed by the employer and signed the collective agreement.

[59] Through this policy grievance, the bargaining agent is attempting to obtain what it was unable to achieve during negotiations. If an unfair result exists, it is not a factor to consider when applying the principles for interpreting the provisions of a collective agreement.

[60] Finally, pursuant to s. 229 of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; "the Act"), the Board's decision may not have the effect of requiring the amendment of a collective agreement.

C. Bargaining agent's reply

[61] The bargaining agent replied that the first part of Pay Note 6 is clear. On the other hand, the last part is open to interpretation; it reads as follows: "After this initial movement to the new pay rates, an employee will continue their progression through teaching experience levels as per Pay Note 19."

[62] The employer's interpretation of Pay Note 6 renders the expression "through teaching experience levels" meaningless. This expression must not be ignored. The principle of ordinary meaning should apply. An interpretation that gives meaning and effect to an employee's years of teaching experience would not lead to absurdity but would be consistent with the general understanding and interpretation of the collective agreement as a whole and, in particular, with Pay Note 19.

[63] The ultimate goal of the parties was to establish a national pay grid and eliminate the wage disparities that existed between employees doing the same work. Progression on the new pay grid on each anniversary of appointment must take into account the years of experience of each employee.

VI. Reasons

[64] The facts in this case are not in dispute. This case concerns the interpretation and application of the collective agreement and, in particular, the provisions of Pay Notes 2, 6, and 19 of the 2021 collective agreement. More specifically, the issue that the Board is asked to decide is whether the progression of ED-EST teachers, after their transition to the new pay grid, is in accordance with the relevant transitional provisions.

[65] I have reviewed the case law submitted by the parties in support of their arguments. It is related primarily to the principles of collective agreement interpretation. There is no need to reproduce them in full here. In my decision, I will only refer to the rules of interpretation that I find most relevant to resolve the issue before me.

[66] The bargaining agent does not dispute that eligible employees were placed on the new pay grid, following their transition, in accordance with the transitional provisions. In other words, it does not suggest that the employer incorrectly determined the pay rate of the employees in question following their transition.

However, it does not agree with the employer on how these employees should progress on that grid.

[67] More specifically, according to the bargaining agent, employees who have moved to the new grid should progress based on their years of teaching experience. That is to say, once placed on the grid, rather than simply moving up to the next level on the anniversary date of their most recent appointment, they must, on that same date, be placed at the level corresponding to their years of teaching experience.

[68] I disagree with the interpretation put forth by the bargaining agent. The progression mechanism that it proposes does not withstand the clear wording of the transitional and related provisions of the 2021 collective agreement. Accepting the interpretation proposed by the bargaining agent would require the amendment of the 2021 collective agreement. However, my decision may not have such an effect (see section 229 of the *Act*).

[69] I agree with the employer that the transitional provisions, as negotiated and accepted by the parties, are clear and unambiguous. Once placed on the grid, ED-EST teachers progress from one level to another (i.e., from levels 1 to 10 - “Teaching experience”) on the anniversary date of their most recent appointment, as set out in Pay Note 19. In other words, an employee who, following the transition, was placed on the grid at Level 4 (training) and at Level 5 (teaching experience) for example, will move to Level 6 on the anniversary date of their appointment, and so on until they reach Level 10, which is the last level.

[70] Nothing in the wording of the relevant provisions can be interpreted as allowing an employee to skip teaching experience levels to be placed directly at the level corresponding to **their** years of teaching experience. Let me explain.

[71] First, the wording of the transitional provisions (i.e., Pay Note 6) reveals, without any ambiguity, that the parties agreed not to take into account the years of experience of eligible employees at the time of their transition to the new pay grid. The relevant excerpt of the transitional provisions reads as follows:

...	[...]
... Notwithstanding years of experience, eligible employees are	[...] Nonobstant les années d'expérience, les employés-es

to be paid at the rate in the new pay grid that is closest to without a reduction of pay to the salary they were paid on the day prior to the effective date.

admissibles doivent être rémunérés au taux de la nouvelle grille salariale s'approchant le plus, sans réduction de salaire, du salaire qu'ils ou elles recevaient le jour précédant la date d'entrée en vigueur.

...

[...]

[Emphasis added]

[72] This excerpt could not be clearer. The parties agreed that the pay rate for eligible employees would be determined based on their pay rate immediately before the effective date of the relevant provisions, and not according to their years of teaching experience. More specifically, their new pay rate would be the one closest to, without any reduction, the rate they were paid immediately prior to the effective date.

[73] The second part of Pay Note 6 deals with the progression of employees who have migrated to the new grid. The parties agreed that it would be done according to the following formula:

...

[...]

... . After this initial movement to the new pay rates, an employee will continue their progression through teaching experience levels as per Pay Note 19.

[...] Après ce premier mouvement aux nouveaux taux de rémunération, l'employé-e poursuivra sa progression en fonction des années d'expérience d'enseignement, conformément à la note sur la rémunération 19.

...

[...]

[74] According to the bargaining agent, it is this second part of Pay Note 6 that is ambiguous and open to interpretation. More specifically, it argues that the expression “will continue their progression through teaching experience levels” should not be overlooked and that the words should be given their ordinary meaning. According to the bargaining agent, this expression should be interpreted in a way that allows the employees in question to advance based on **their** years of teaching experience, even if it means they skip levels to get there.

[75] I am of the view that the relevant provisions of the collective agreement do not allow for such a progression mechanism. If the parties had wanted such a result, they would have clearly expressed it.

[76] Although I acknowledge, as the bargaining agent argues, that according to the principles of interpretation, the terms of a collective agreement must be understood in their grammatical and ordinary sense, they should not be read in isolation. The words and expressions of a collective agreement must be interpreted in their overall context, in harmony with the agreement as a whole (see *Professional Institute of the Public Service of Canada v. Treasury Board*, 2019 FPSLREB 108 at para. 56; *Cruceru v. Treasury Board (Department of Justice)*, 2021 FPSLREB 30 at para. 84).

[77] Read in light of the wording of the transitional provisions and other related provisions of the collective agreement, the expression “will continue their progression through teaching experience levels” cannot be interpreted to mean that employees who have transitioned to the new grid will, on the anniversary date of their most recent appointment, be placed at the level corresponding to **their** years of teaching experience. Such an interpretation would be contrary to the clear and unambiguous wording of Pay Note 19. That wording reads as follows:

...	[...]
<i>b. Subject to satisfactory performance of duties, an employee on a twelve (12) month work year will be granted annual increments on the anniversary date of an employee's most recent appointment.</i>	<i>b. Sous réserve d'un rendement satisfaisant, un employé-e dont l'année de travail est répartie sur douze (12) mois se verra accorder des augmentations annuelles à la date d'anniversaire de sa nomination la plus récente.</i>
...	[...]

[78] The expression “will continue their progression through teaching experience levels” cannot be read separately and in an abstract manner. It must be interpreted in its overall context. The text of Pay Note 6 states that, once the eligible employee is placed on the new grid, they will continue their progression through teaching experience levels **as per** Pay Note 19.

[79] The expression “as per Pay Note 19” cannot be ignored. It clarifies and narrows the scope of the wording “will continue their progression through teaching experience

levels” and gives it a precise meaning. The parties expressly included it in the wording of the transitional provisions. According to the rules of interpretation of collective agreements, it is presumed that every word and every expression used by the parties has a meaning and a role to play. This must be taken into account when determining the intent of the parties. To this end, the parties do not draft superfluous or unnecessary provisions (*Canadian Labour Arbitration*, 5th edition at paragraph 4:22, “Presumption that all Words Have Meaning”; *Professional Institute of the Public Service of Canada* at para. 56; *Cruceru*, at para. 84; *Ewaniuk v. Treasury Board (Department of Citizenship and Immigration)*, 2020 FPSLREB 96 at para. 45).

[80] Pay Note 19 does not allow for an employee who has migrated to the new pay grid to be placed at the level corresponding to **their** years of teaching experience on the anniversary date of their most recent appointment, as proposed by the bargaining agent.

[81] The wording of paragraph 19(b) of the note clearly states that an employee on a 12-month work year is entitled to annual increases on the anniversary date of their most recent appointment, provided that their performance is satisfactory. Period.

[82] The interpretation proposed by the bargaining agent would allow some employees who have migrated to the new pay grid to progress by skipping levels. However, such a progression is simply not allowed by the transitional provisions and Pay Note 19.

[83] I agree with the employer’s argument that a benefit resulting in a monetary cost to the employer, such as the one that would arise from the interpretation proposed by the bargaining agent, must be expressly granted under the collective agreement (see *Wamboldt v. Canada Revenue Agency*, 2013 PSLRB 55 at para. 27; *Denboer v. Treasury Board (Correctional Service of Canada)*, 2016 PSLREB 58 at para. 53).

[84] Finally, the English version of the relevant excerpt from Pay Note 6 dispels any doubt about the scope of the expression “will continue their progression through teaching experience levels.” Indeed, the English version confirms that this expression, when read in its overall context and in harmony with Pay Note 19, should be interpreted as simply referring to the **teaching experience levels** specified in the left column of the new pay grid (i.e., the years of teaching experience representing levels 1 to 10), and not to the **employee's** years of teaching experience.

[85] The wording of the English version in question is reproduced below alongside the French version:

...	[...]
<p><i>... After this initial movement to the new pay rates, an employee will continue their progression through teaching experience levels as per Pay Note 19.</i></p>	<p>[...] <i>Après ce premier mouvement aux nouveaux taux de rémunération, l'employé-e poursuivra sa progression en fonction des années d'expérience d'enseignement, conformément à la note sur la rémunération 19.</i></p>
...	[...]
[Emphasis added]	

[86] This wording could not be clearer. The employee's progression will be through the teaching experience levels as per Pay Note 19, that is, once a year on the anniversary date of their most recent appointment. As mentioned earlier, these teaching experience levels are expressly set out in the new pay grid. I repeat, the collective agreement does not provide any mechanism for the affected employees to skip teaching experience levels as suggested by the bargaining agent. Their progression on the grid is as per Pay Note 19(b).

[87] With respect to the above, I would also note that the French and English versions of the 2021 collective agreement have official status (see clause 3.02 of the 2021 collective agreement) and therefore have the same authoritative value. Their interpretation cannot vary based on the language in which they were drafted at the risk of creating different rights or obligations depending on the language version. The provisions must be interpreted in a way that has the same scope in both official languages (see *Canadian Labour Arbitration*, 5th edition at paragraph 4:21, "Normal or Ordinary Meaning"; *Professional Institute of the Public Service of Canada v. Canada Revenue Agency*, 2022 FPSLREB 54 at paras. 134 to 137 and 176; *CUPE, Local 1252 and Horizon Regional Health Network (Brun), Re.* 2017 Carswell NB 400 at paras. 7 to 11).

[88] In short, the English version of the clear and unambiguous wording cited above does not allow for the interpretation proposed by the bargaining agent.

[89] Finally, if the parties had wanted employees who migrated to the new grid to be paid based on **their** years of teaching experience, rather than based on their salary

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prior to the effective date, they would have said so. By inserting the phrase “notwithstanding years of experience” into the transitional provisions, which could not be clearer, the parties clearly indicated that eligible employees would not be paid based on their teaching experience. That was their choice, and that choice must be respected.

[90] I am also of the view that the interpretation proposed by the bargaining agent is not consistent with the overall wording of the transitional provisions and leads to anomalies or an absurd result. Indeed, why would the parties have decided not to take into account the teaching experience of employees at the time of their transition to the new grid, but then want their progression to rely on that factor as the bargaining agent claims?

[91] Such an interpretation would have the effect of depriving some affected employees of the pay corresponding to their years of teaching experience for the entire period between their placement on the new pay grid and their first progression on the anniversary date of their most recent appointment. Why would the parties have wanted to deprive employees of the pay corresponding to their teaching experience only during that period, but not afterwards, i.e., from the anniversary date of their most recent appointment?

[92] In short, nothing in the relevant provisions of the collective agreement supports the interpretation put forward by the bargaining agent. Given the importance of the issue for the employees involved, if the parties had intended for them to progress on the grid according to the interpretation proposed by the bargaining agent, they would have expressed it in clear terms (see *Wamboldt*, at para. 27, and *Denboer*, at para. 53).

[93] As for Pay Note 2, it is true that, according to that note, employees have the right to receive the pay rate set on the pay grid based on their level of education, their professional certifications and their experience. However, that note was excluded from the application of the transitional provisions. According to the joint statement of facts, the insertion of the expression “[n]otwithstanding Pay Note 6” at the beginning of Pay Note 2 served to clarify that the transitional provisions would apply only to employees in position at the time of their transition to the new pay grid. Pay Note 2 would still apply to **new** employees.

[94] In its written arguments, the bargaining agent confirmed that Pay Note 6 of the 2021 collective agreement provides an exception to the rule stated in Pay Note 2 and acknowledged that, for the transition to the new grid, the parties expressly agreed to such an exception. Nevertheless, despite the above, it is of the opinion that the employees concerned should progress based on their years of teaching experience. I do not agree with this proposal for the reasons stated earlier in this decision.

[95] Moreover, Pay Note 6, which provides an exception to the general principle stated in Pay Note 2, addresses both the initial movement of employees eligible for the new pay rates and their progression on the new grid after their transition. Nothing in its wording suggests that the exception it creates applies only to the initial movement of eligible employees as the bargaining agent suggests.

[96] Finally, the fact that the application of the transitional measures may seem unfair to some employees, as the bargaining agent suggests, does not allow me to amend the provisions of a clear and unambiguous collective agreement to make them more equitable; I can only interpret them (see *Chafe v. Treasury Board (Department of Fisheries and Oceans)*, 2010 PSLRB 112 at para. 50; and *Parmiter v. Treasury Board*, 2021 FPSLREB 57 at para. 22). Moreover, as I have already stated earlier in my reasons, my decision may not have the effect of requiring that the 2021 collective agreement be amended (see section 229 of the *Act*). However, the bargaining agent is asking me to do just that to address what it believes to be an injustice towards some employees.

[97] As sophisticated and experienced parties, they should have found a mutually acceptable solution at the bargaining table.

[98] Finally, as context only, according to the joint statement of facts, the consequences of the transitional provisions, which the bargaining agent considers unfair to some employees, were already known to it at the time of the negotiations and before the 2021 collective agreement was signed.

[99] Indeed, the bargaining agent knew that the wording of the transitional provisions, as proposed by the employer, could have the effect, in some cases, of placing new employees at a higher pay rate than that of employees already in position, even if the latter had more teaching experience. The bargaining agent raised this during negotiations with the employer and, to prevent this from happening, proposed changes to Pay Note 6, as indicated in bold in the text below:

<p style="text-align: center;">...</p> <p>6. Transitional provision</p> <p>The restructure of regional ED-EST 10-month annual rates of pay to national ED-EST 12-month rates of pay for teachers in Correctional Service of Canada, the Department of National Defence Canada or the Department of Fisheries and Oceans, will be effective July 1, 2018. according to the dates determined by clause 2a)(ii) of the new Appendix "K" – Memorandum of Understanding with respect to Implementation of the Collective Agreement. Eligible employees are to be paid placed on the national grid at the a rate that corresponds to their years of teaching experience and level of education. in the new pay grid that is closest to without a reduction of pay to the salary they were paid on the day prior to the effective date. After this initial movement to the new pay rates, an employee will continue their progression through teaching experience levels as per Pay Note 19. Notwithstanding this restructure date, implementation of new rates of pay will proceed according to the timelines determined by clause 2a)(ii) of the New Appendix "K" – Memorandum of Understanding with Respect to Implementation of the Collective Agreement. years of experience;</p> <p style="text-align: center;">...</p>	<p>[Translation]</p> <p>[...]</p> <p>6. Disposition transitoire</p> <p>La restructuration des taux de rémunération annuels régionaux ED EST de 10 mois en taux de rémunération nationaux ED-EST de 12 mois pour les enseignants-es du Service correctionnel du Canada, du ministère de la Défense nationale du Canada ou du ministère des Pêches et des Océans, entrera en vigueur le 1er juillet 2018. aux dates déterminées conformément au paragraphe 2a)(ii) du nouvel Appendice « K » – Protocole d'entente concernant la mise en œuvre de la convention collective. Les employés-es admissibles doivent être rémunérés placés sur la grille nationale au à un taux de la nouvelle grille salariale s'approchant le plus, sans réduction de salaire, du salaire qu'ils-elles recevaient le jour précédant la date d'entrée en vigueur correspondant à leurs années d'expérience en enseignement et à leur niveau d'éducation. Après ce premier mouvement aux nouveaux taux de rémunération, l'employé-e poursuivra sa progression en fonction des années d'expérience d'enseignement, conformément à la note sur la rémunération 19. Nonobstant cette date de restructuration, la mise en œuvre des nouveaux taux de rémunération se fera selon les échéanciers fixés par la clause 2a)(ii) du nouvel appendice « K » – Protocole d'entente relatif à la mise en œuvre de la convention collective. les années d'expérience;</p> <p>[...]</p>
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Note: The changes proposed by the bargaining agent are in bold and strikethrough.

[100] The suggested amendment would indeed have taken into account the years of teaching experience of eligible employees to determine their pay rate. However, the employer rejected it.

[101] In return, the employer increased the economic increase from 0.95% to 1.35% during the third year of the agreement (2020) for the affected employees in exchange for its final global offer. That offer included the unchanged wording of Pay Note 6, as presented on July 15, 2020. The bargaining agent accepted it knowing the potential salary consequences for employees in position at the time of the transition. It made that choice.

[102] It is important to remember that the Board has neither the role nor the power to grant any benefits of any kind to the parties that they did not obtain at the bargaining table (see *Forbes v. Treasury Board (Correctional Service of Canada)*, 2021 FPSLREB 110 at para. 67).

[103] For all of the above reasons, the Board makes the following order:

(The Order appears on the next page)

VII. Order

[104] The policy grievance is dismissed.

[105] The request for a confidentiality order is granted in part.

[106] The bargaining agent shall provide the Board with redacted copies of the questionnaires found under Tab 9 of its book of documents within 30 days of the date of this decision. Only the personal phone numbers and email addresses of employees will need to be redacted.

[107] Those questionnaires are sealed for a period of 30 days from the date of this decision or until delivery of the redacted copies, whichever comes first. Upon receipt of those copies, the Board's registry shall replace them with the redacted copies.

October 28, 2025.

FPSLREB Translation

**Adrian Bieniasiewicz,
a panel of the Federal Public Sector
Labour Relations and Employment Board**