

School District No. 22 (Vernon)

PROCEDURE

Please file in By-Laws, Policy & Procedure Manual

No. PR 6.4.0

Adopted: 09 Oct. 1984
Amended: 04 Dec 2001

TEACHERS - LEAVE OF ABSENCE DEFERRED SALARY LEAVE (3-4-5) PLAN

REVISED AGREEMENT DATED. 04 December 2001

BETWEEN:

THE BOARD OF SCHOOL TRUSTEES OF SCHOOL DISTRICT NO. 22 (VERNON),
(hereafter called the "Board")

AND:

VERNON TEACHERS' ASSOCIATION,
(hereafter called the "Association")

PREAMBLE

The Board of Trustees and the Vernon Teachers' Association entered into an agreement on the implementation and procedures for a deferred salary leave plan on 29 February, 1980. This agreement was based upon an Income Tax Ruling obtained from the federal tax department of the day. Subsequent to the implementation of the Plan, on July 28, 1986, the Federal Government proclaimed specific Income Tax Regulations to govern such plans. These regulations proscribe the conditions under which such plans may operate. The Board of Trustees and The Vernon Teachers' Association therefore have agreed to redraft the agreement to reflect current Income Tax Regulations.

1. ELIGIBILITY

Any teacher with three years' seniority with School District No. 22 (Vernon) is entitled to apply to the Board to participate in this Plan.

2. APPLICATION AND APPROVAL

- 2.1 A teacher must make written application to the Superintendent of Schools on or before June 30th requesting permission to participate in the Plan beginning with contributions the following September.

- 2.2 Approval of each application shall rest solely with the Board.
- 2.3 All teachers who participate in the Plan must sign a Memorandum of Agreement supplied by the Board before final approval for participation is granted.

3. CONTRIBUTIONS AND INVESTMENTS

- 3.1 Upon receiving final approval to participate, contributions will commence in September.
- 3.2 During each school year in which the teacher has participated in the Plan prior to the leave of absence up to a maximum of four such school years 20% of the annual salary (grid salary plus allowances) will be deducted from pay and retained by the Board.
- 3.3 The monies retained by the Board in accordance with clause 3.1, together with all monies retained by the Board for other teachers who are participating in the Plan, shall be invested by the Board in investments, as agreed by a committee of the Board and the Association.

The committee is authorized to invest in investments offered by any Canadian Chartered Bank, any Trust Company authorized to do business in the province of British Columbia, or any Credit Union authorized to do business in the province of British Columbia.

In making such determination, the Board, the Association and the members of the Committee shall not be liable to any participating teacher for the investments so specified so long as they are authorized by this clause.

- 3.4 Income earned on the monies held in trust shall be paid annually to the participating teacher.
- 3.5 The Secretary-Treasurer shall ensure that the Trust reports annually to each participating teacher under this Plan as to the amount of deferred salary held at that date, and the amount of interest earned.
- 3.6 The Board will bear the administrative expenses of the Plan.

4. LEAVE OF ABSENCE

- 4.1 Teachers shall apply in writing to the Board to take a leave of absence by March 31 prior to the school year in which the leave is to be taken.
- 4.2 The maximum number of teachers who may be away on a leave of absence under this Plan in any given year shall not exceed 10 percent of the total teaching staff of the School District on a full time equivalent basis. The date for this determination shall be March 31st prior to the year of the leaves.
- 4.3 The Leave of Absence must be taken in the 3rd, 4th, or 5th year of the Plan (except in the case of a deferral granted under 4.4) upon application to the Superintendent of Schools. The salary paid to the teacher during the Leave of Absence will be related to the amount retained and invested by the Board on behalf of the Teacher. The schedule of payments will be established following consultation between the teacher and the Secretary-Treasurer or designate.

- 4.4 Leave of absences will normally be considered for one school year. In exceptional circumstances leaves may be granted at other times or for shorter periods. Except for leaves for full time attendance at a designated education institution (which must be a minimum of three consecutive months), leaves must be for a minimum of six consecutive months.
- 4.5 A teacher may defer the leave of absence by applying in writing on or before March 31st prior to the year of the leave. Notwithstanding this clause, the leave must commence not later than immediately following six years from the commencement of contributions.
- 4.6 In the event the Board is unable to obtain a suitable replacement for a teacher who has requested a leave of absence at a specified time, the Board may in its discretion, defer the leave of absence for a maximum of one year. In such case a teacher may choose to remain in the Plan, or withdraw from the Plan.
- 4.7 On return from leave, a teacher will be assigned to his/her same position (including position of responsibility), or, if due to declining or changing enrolment patterns, said position no longer exists, the teacher will be governed by the appropriate District Transfer policy.

5. BENEFITS

- 5.1 While the Teacher is enrolled in the plan prior to the leave, the Board will make pension deductions as required by the Pension corporation.
- 5.2 During a Leave of Absence, the responsibility for payment of premiums for benefits for a participant shall be as set forth in the collective agreement between the Board and the Association in force at that time.
- 5.3 Sick leave credits will not accumulate during the one-year leave of absence.

6. WITHDRAWAL

- 6.1 Teachers who cease to be employed by the Board while participating in the Plan must withdraw from the Plan at the date they cease employment with the Board. Upon withdrawal the deferred salary invested in the trust on behalf of the teacher, along with any accumulated interest earnings will be paid out in a lump sum within sixty days.
- 6.2 A teacher may withdraw from the Plan at any time prior to taking the leave of absence. Upon withdrawal the deferred salary invested in the trust on behalf of the teacher, along with any accumulated interest earnings will be paid out in a lump sum within sixty days.
- 6.3 Upon the death of a teacher participating in the Plan the deferred salary invested in the trust on behalf of the teacher, along with any accumulated interest earnings will be paid to the estate within sixty days, providing that any necessary legal clearances and proofs have been received.
- 6.4 A teacher may upon written request suspend his or her contributions to the Plan until the following September. This will not affect the maximum deferral period.

7. TERMINATION OR AMENDMENT OF PLAN

- 7.1 The Plan may be amended by agreement between the Board and the Association. Any amendment(s) shall be binding upon all present and future Participants.
- 7.2 All amendments to the Plan shall comply with the Income Tax Act.
- 7.3 The Plan may be terminated by either party upon 90 days' notice in writing directed by one party to the other. However, those teachers participating under the Plan at the time of such 90 days notice may continue with the Plan until the leave of absence has been fulfilled by virtue of the provisions of this agreement.

BOARD OF SCHOOL TRUSTEES OF SCHOOL DISTRICT NO. 22 (VERNON)

SIGNED BY: _____ DATE: _____

NAME: _____

TITLE: _____

VERNON TEACHERS' ASSOCIATION

SIGNED BY: _____ DATE: _____

NAME: _____

TITLE: _____

**DEFERRED SALARY LEAVE (3-4-5) PLAN
MEMORANDUM OF AGREEMENT**

I have read and agree to the terms and conditions of the Agreement between the Board of Trustees of School District No. 22 and the Vernon Teachers' Association governing the administration of the plan, and I agree to enter the plan under the following conditions.

1. I will contribute 20 % of my income (grid salary and allowances) per month to the Deferred Salary Leave (3-4-5) Plan.
2. The deferred income will be invested in trust on my behalf and I will be paid the interest earned on the trust annually.
3. I agree to take my leave on the 3rd, 4th, or 5th year after my enrollment in the plan. If I wish to defer my leave to the 6th year, I agree to notify the board in writing by March 31st prior to the 5th year after enrollment in the plan.
4. I understand and agree that notwithstanding any other agreement, the leave will commence no later than 6 years after the commencement of contributions to the plan. Further the full amount of the deferred income held in trust will be paid out not later than the end of the taxation year following the 6th anniversary of enrollment in the plan.
5. I understand that upon withdrawal from the plan the deferred salary invested in the trust on my behalf along with any accumulated interest earnings will be paid out in a lump sum within sixty days.
6. I understand that during the leave I cannot work for or receive any salary or wage from the School District or related organizations.
7. I agree that I will return to regular employment with the School District immediately following the leave of absence, for a period not less than the length of the leave of absence.

8. **ENROLLMENT DATE**

I wish to enroll in the 3-4-5 Plan commencing September _____

Name: _____

Signature: _____

Date: _____

I anticipate taking my leave of absence commencing _____ (Date)

APPENDIX 2

INCOME TAX REGULATIONS

Deferred Salary Leave Plans are contemplated under section 6 (11) of the Income Tax Act as a salary deferral arrangement, further defined under 248 (1) salary deferral arrangement (I) a prescribed plan. The regulation for such a prescribed plan is Income Tax Regulation 6801.

The key elements of the regulation are stated below

1. The prescribed plan is an arrangement between the employer and employee in writing
2. 6801 (a) ...”is established for the main purpose of permitting the employee to fund, through salary or wage deferrals, a leave of absence from the employee’s employment “
3. The length of the leave of absence is a minimum of

Three consecutive months where the employee is in full time attendance at a designated education institution (6801 (a)(i)(A))

Six consecutive months in any other case (6801 (a)(i)(B))
4. The leave commences no later than 6 years after the commencement of deferrals (6801(a)(i))
5. The maximum annual deferral is 33 1/3 % of annual salary (6801 (a) (ii))
6. During the leave the employee cannot receive any salary or wages from the employer or from any other person from whom the employer does not deal at arms length (6801 (a) (iii))
7. Amounts deferred must be held in trust, and income earned in the trust must be paid in the year to the employee (6801 (a)(iv))
8. “The arrangement provides that the employee is to return to his regular employment with the employer for a period that is not less than the period of the leave of absence....” (6801 (a)(v))
9. All amounts deferred must be paid to the employee not later than the end of the taxation year that commences after the end of the deferral period. (6801 (a)(vi))