

ARTICLE 7 – EMPLOYEE RIGHTS

7.1 Academic Freedom

7.1.1 There shall be no infringement or abridgment of the academic freedom of any faculty member. Society benefits from the search for knowledge and its free exposition. Academic freedom is essential to both these purposes in the teaching function of the Institute as well as in scholarship and research.

Academic freedom is the freedom to examine, question, teach, and learn and it involves the right to investigate, speculate, and comment without regard to prescribed doctrine. Academic freedom ensures the following:

- Freedom in the conduct of teaching;
- Freedom in undertaking research and publishing or making public the results thereof, without infringing upon the Institute's copyright privileges;
- Freedom from institutional censorship.

Academic freedom carries with it the duty to use that freedom in a responsible way and in a manner consistent with the scholarly obligation to base teaching and research on an honest search for knowledge and the obligation to follow the curriculum requirements of the instructional assignment.

7.1.2 Subject to Articles 7.1.3 and 7.1.4, members of the Bargaining Unit shall be governed by their own discretion in their presentation of course material within the constraints of professional conduct as Faculty, Assistant Instructors, and Technical Staff.

7.1.3 The provisions of this Article shall be subject to such modification as a legal accrediting body requires, provided that:

7.1.3.1 the accrediting body legally governs the right of a graduate to practice; and

7.1.3.2 the particular requirement as to teaching method is specified precisely by the accrediting body; and,

7.1.3.3 the specific provision is stated by the accrediting body as being essential to continued accreditation of the course or program, or licensing of BCIT graduates.

7.1.4 In Industry Services when course materials include specific lesson plans and/or presentation guidelines, the instructor will be expected to follow the plans and guidelines; otherwise the method of presentation will be left to the instructor's discretion.

7.2 Personnel Files

7.2.1 During normal working hours and in the presence of a Human Resources Office staff member, all Employees have the right of access to their personnel records. Every Employee is also entitled to copies of all material in their personnel file at the time it is inserted into the personnel file.

7.2.2 There shall be space for the Employee to initial each document included in the Employee's personnel file, to indicate that the Employee has seen the document. The Employee's initial or signature shall in no way be taken to indicate concurrence with the content of the document.

7.2.3 Employees are entitled to add comments to documents in their personnel files, or to add material to the file.

- 7.2.4 Subject to Article 13 (Performance Appraisal) and as may be specifically provided in Article 19 (Discipline, Suspension, Discharge), the Employer shall take no action against an Employee except on the basis of material in the personnel file, unless the Employee specifically waives this provision.
- 7.2.5 A Dean, Director, or Manager may keep a file of personal notes, aides-memoir, and similar informal material concerning an Employee. Before material is transferred to the personnel files, a full review shall be held with the Employee. No material shall be transferred from such files into the personnel file if the Employee has not been informed through such a review and in any case no material shall be transferred which is more than one (1) year old.
- 7.2.6 An Employee may request, in writing, that material be removed from the Employee's personnel file under any or all of the following circumstances:
- 7.2.6.1 the material is more than two (2) years old;
- 7.2.6.2 the material is no longer specifically relevant to that Employee's current situations;
- 7.2.6.3 The material is invalid;
- and such material shall be removed subject to Article 7.2.7 but material shall not be removed from an Employee's personnel file except at that Employee's request.
- 7.2.7 If the Manager of Labour Relations considers the material referred to in Article 7.2.6 to be of continuing relevance in spite of being more than two (2) years old, or considers that it is valid, then the Employee shall have the right to appeal to the Labour/Management Committee for decision.
- 7.2.7.1 The Labour/Management Committee shall render a decision within five (5) working days. In the event that no decision is made by this time and the Union wishes to pursue the matter, it shall be automatically referred to arbitration as set out in Article 3 of this Agreement.
- 7.2.7.2 Pending the decision of the arbitrator or the Labour/Management Committee, the material in dispute shall not be used or referred to in any disciplinary action.
- 7.2.7.3 The time limits set out in Article 19 shall apply from the date the arbitrator or the Labour/Management Committee makes a decision.
- 7.2.8 All material relating to an Employee and held under authority of the Human Resources Department Office, must be placed in the Employee's personnel file and treated as set out in Article 7.2.
- 7.3 Seniority
- 7.3.1 Seniority means the service time with the Employer from date of hire or appointment for all Regular Employees subject to the following provisions:
- 7.3.1.1 Regular Employees will accrue seniority based on service time and will continue to accrue seniority while on release time for Union activity or while absent on an approved leave of absence except for general purpose leave without pay as per Article 9.7.

7.3.1.2 All service as a Temporary Employee will accrue to the Employee on becoming a Regular Employee provided there are no gaps in the employment service of more than five (5) months.

7.3.1.3 A member of the Bargaining Unit who takes an excluded Management position and then re-enters the Bargaining Unit,

7.3.1.3.1 shall have previous Bargaining Unit service recognized, and

7.3.1.3.2 shall have Management service recognized to a maximum of four (4) years.

7.3.1.3.3 in either Articles 7.3.1.3.1 or 7.3.1.3.2 only service subsequent to any break in BCIT employment shall count.

7.3.1.3.4 If the Employee's Management service exceeds four (4) years, then previous Bargaining Unit work shall count but Management service time past four (4) years shall not.

7.3.1.3.5 All Management personnel on staff before 1985 April 12 who re-enter the Bargaining Unit shall, for seniority purposes, have all BCIT service time counted subsequent to any break in BCIT employment.

7.3.1.4 Continuous part-time employment shall be prorated to the equivalent of full-time employment to calculate the relevant length of time for application of this provision. For the purpose of calculating continuous full-time employment by the Institute, two (2) periods of employment by the Institute which are separated by a period of five (5) months or less shall be considered one (1) continuous period of employment with the interruption in employment included in the calculated time of continuous full-time employment by the Institute.

7.3.2 The Employer will maintain seniority lists, which will be updated periodically. Copies of the seniority lists will be forwarded to the Union. The list will show the date of hire and the service seniority established for each Regular Employee.

7.3.3 BCIT personnel transferring voluntarily from a position within the Union Bargaining Unit to a position within a BCGEU Bargaining Unit, or vice versa, are also covered by the Memorandum of Agreement in Appendix 4.

7.4 Course Materials

7.4.1 An Employee's lecture materials, demonstrations, written or graphic materials, audio-visual materials and any other teaching aids which the Employee creates, develops, acquires or introduces into the Institute in support of that Employee's teaching or teaching-related functions shall be the Employee's sole property and shall not be used by others without the Employee's permission.

7.4.2 Article 7.4.1 notwithstanding,

7.4.2.1 course-outlines shall be made available to the Manager.

7.4.2.2 copies of formal scheduled examinations may be maintained in a file in the Institute, provided that, where the instructor concerned considers it educationally undesirable to have wide student access to the examination, the Institute shall, upon the instructor's request, keep the examination copy in a restricted file with

release subject to approval by the instructor and the appropriate Dean, subject to the specific requirements of accrediting or licensing bodies.

7.5 Patents and Copyright

- 7.5.1.1 When one or more Employees have been hired (full or part-time) in an appointment solely to create and produce a specific, tangible product for the Institute, or
 - 7.5.1.2 When one or more Employees are given specifically defined Release Time (full or part-time) from usual duties, including voluntary release from activities which would otherwise be done during an Employee's month free of teaching, solely to create and produce a specific tangible product for the Institute, or
 - 7.5.1.3 When one or more Employees are paid in addition to their regular rate of pay for their time (or a flat rate), in an appointment solely to produce a specific tangible product for the Institute (such payment to be subject to negotiation between the Parties), the product shall be the property of the Institute. The provisions of Articles 7.5.2, 7.5.3, 7.5.4, & 7.5.5 shall apply.
- 7.5.2 If the use of the product produces any income, other than direct BCIT student fees when the product is used by BCIT Employees through BCIT for BCIT courses, then the income shall be shared 63/37 respectively between the Institute and the Employee(s) significantly involved in the creative aspects of the production after the following costs have been met:
- 7.5.2.1 direct salary costs of the Employee(s) with significant creative roles in the production, excluding clerical, technician, and management functions;
 - 7.5.2.2 cost of benefits directly related to the salary amounts in Article 7.5.2.1
 - 7.5.2.3 other direct compensation costs such as overtime;
 - 7.5.2.4 pro-rata share of major production costs such as any special equipment leased or purchased, and major materials costs;
 - 7.5.2.5 specific marketing costs.
- 7.5.3 In the event that more than one (1) person is significantly involved in creating the product, as described in Articles 7.5.1 and 7.5.2 above, then the proportion of the production attributable to each Employee shall be determined by those Employees. If agreement among them is not reached by the time the finished product is created, then the Institute shall determine the proportionate sharing of authorship and production among the Employees. The proportionate sharing of the Employees' share of net proceeds shall be in accord with Article 7.5.2 above.
- 7.5.4 The income and costs described in Article 7.5.2 above shall be calculated in accordance with accepted accounting principles; and further those calculations shall, upon request, be available to the Employee(s) concerned. The calculation of income and costs, if unsatisfactory to any Employee involved, is subject to the grievance procedure as to the mathematics and the appropriateness and the amounts of the factors involved.
- 7.5.5 The Institute shall, upon request, grant licence to the producer(s) to market the product, but subject to the Institute's approval regarding the marketing plan, advertising and promotional materials, price and market.
- 7.5.6 Other than as provided in Article 7.5.1 above, when an Employee creates and produces manuals, texts, workbooks, film slides, video-tape or other audiovisual material, or

computer programs, etc., with Institute resources, and does so under an agreed grant, subsidy or compensation from the Institute, all of which are subject to negotiation between the Parties, ownership of any material produced shall remain with the Employee. If there is income from sale, rent or lease of the product, then the proceeds shall be shared equally between the producer and the Institute until the Institute's accumulated share of the proceeds equals any originally agreed grant, subsidy, or compensation from the Institute.

7.5.7 Where Employees use production facilities outside the control of the Institute, non-Institute supplies, and work outside their usual duties, the Institute shall have no right, title, or interest in any product, copyright, patent, or invention.

7.6 Indemnity

7.6.1 Except when the Labour/Management Committee finds that there has been flagrant negligence on the part of an Employee, the Employer agrees not to seek indemnity against an Employee whose actions result in a judgement against the Employer. The Employer agrees to pay any judgement against an Employee arising out of the performance of that Employee's duties and pay the legal costs therein of that Employee, provided the Employer approves counsel, or to pay the Employee's share of any out of court settlement arising from the case if the settlement is approved by the Institute. Approval of legal counsel or out of court settlement shall only be withheld for significant stated cause. Approval of legal counsel shall not be withheld on the basis of cost.

7.6.2 In order that the above provisions shall be binding upon the Employer, as noted in Article 7.6.1 above, the Employee shall notify the Employer, in writing, within 90 days of any incident or course of events which may lead to legal action against that Employee, and the intention or knowledge of such possible legal action is evidenced by any of the following circumstances:

7.6.2.1 When the Employee is first approached by any person or organization notifying the Employee of intended legal action against the Employee; or

7.6.2.2 When the Employee decides to retain counsel in regard to the incident or course of events; or

7.6.2.3 When any investigative body or authority first notifies the Employee of an investigation or other proceeding which might lead to legal action against the Employee; or

7.6.2.4 When information first becomes known to the Employee in the light of which the Employee might reasonably consider that the Employee might be the object of legal action.

7.6.3 In the event that an Employee wishes to retain counsel as in Articles 7.6.1 and 7.6.2, then the Employee shall so advise the Employer in writing. Within 10 working days of receipt of this information the Employer shall advise the Employee, in writing, of the Employer's intention either to:

7.6.3.1 provide and pay for legal services; or

7.6.3.2 pay for legal services from counsel whose selection the Employer approves; or

7.6.3.3 withhold provision of or payment for legal services for significant stated cause as in Article 7.6.1. This shall not prejudice the Employee's nor the Union's right to grieve the matter.

7.7 Office Space

- 7.7.1 The desirable office space per Faculty Employee shall be recognized to be at least 80 square feet in an individual office. This provision may be varied by mutual agreement.
- 7.7.2 The Labour/Management Committee shall establish a representative committee to study and make recommendations to the Parties regarding office space.

7.8 Parking

- 7.8.1 There shall be no change in parking regulations and policies except by mutual agreement of the Parties.
- 7.8.2 There shall be no change in parking fees except by mutual agreement of the Parties.
- 7.8.3 Specific parking lots agreeable to the Union shall be designated for use by Part-Time Studies Employees on weekdays after 4:30 p.m.

7.9 Picket Lines

- 7.9.1 All Employees have the right to refuse to cross a legally established trade union picket line, or a trade union picket line which has been officially recognized by the Union in advance of its erection, and such refusal to work shall not be considered a violation of this Agreement or grounds for disciplinary action or any other penalty.
- 7.9.2 The Employer has the right to declare any Employee who chooses not to cross the picket line as being absent without pay, until the Employee returns to work at the Institute. Subject to the relevant pension regulations, and subject to the Employee paying both the Employer and Employee contributions, the Employer will record such absence as leave without pay so that the Employee can accrue pensionable service. Employees who are absent without pay will not receive pay, nor continuation of benefits for which premiums have not yet been paid, under any provisions of the Collective Agreement, except as set out in Article 7.9.
- 7.9.3 Employees who report for previously assigned work off campus, or other off campus work that the Employer, in its discretion agrees to recognize, shall be paid for such work.
- 7.9.4 Employees who have leaves properly scheduled prior to the commencement of the picketing, where such leave will continue or commence during the strike period, shall be paid during such leaves.
- 7.9.5 Where an Employee has commenced sick leave prior to the commencement of the picket line, paid sick leave shall continue until recovery is effected. To be entitled to sick leave under this clause an Employee must have been on paid sick leave on the Employee's last scheduled work day prior to the commencement of picketing.
 - 7.9.5.1 The Employer is entitled to ask for, and be provided with, a medical certificate verifying the fact of the illness, the need for absence from duty, and the date of recovery.
- 7.9.6 Employees shall be granted bereavement leave with pay where circumstances warrant and are proven, regardless of the other provisions of this Article.

7.10 Rest Periods

All Employees shall be entitled to a paid 15 minute rest period in each half of their workday. Employees working three and one half (3 1/2) hours but not more than six (6) hours shall receive

one (1) rest period. Rest periods shall not be used to delay normal start times nor to advance normal quit times. Departments shall schedule rest periods so as to minimize the interruption of the delivery of service to students/clients.