



FÉDÉRATION DU PERSONNEL SOUTIEN
DE L'ENSEIGNEMENT SUPÉRIEUR

APPLICATION GUIDE FOR COLLEGE SUPPORT STAFF MEMBERS

ANNUAL VACATION

Articles 7-6.00 and 7-7.00

Warning: This document is an attempt to simplify certain rights found in the college support staff collective agreement: FPSES – CSQ (C-7)

The collective agreement, the provincial letters of agreement attached to this agreement, and the legislation cited remain the only official texts.

In case of doubt, contact your Union.

MEMBERS' GUIDE FOR ANNUAL VACATIONS

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ANNUAL VACATIONS

DETERMINING THE NUMBER OF VACATION DAYS

The number of vacation days you are allocated is based on your seniority on June 1st of each year. clauses 7-6.01 to 7-6.07

Seniority on June 1 of each year	Number of annual vacation days
Less than (1) year	1 2/3 days per month of seniority
between 1 and 17 years	20 days
17 or 18 years	21 days
19 or 20 years	22 days
21 or 22 years	23 days
23 or 24 years	24 days
25 years or more	25 days

The period during which vacation days are accumulated is from June 1 of the preceding year to May 31 of the current year. clause 7-6.10

PROCEDURES FOR THE PART-TIME EMPLOYEE

For the part-time employee, the number of vacation days allocated is based on seniority. clause 7-6.12

PROCEDURES FOR THE OCCASIONAL OR REPLACEMENT EMPLOYEE

For the person who has less than six (6) months of continuous service¹.

In lieu of vacation pay, the College pays the employee a lump sum of eight percent (8%) of the gross salary earned. This lump sum is paid to the employee at the end of his or her contract. 2nd paragraph of clause 2-3.04

For the person who has more than six (6) months of continuous service¹.

You are entitled to vacation days in accordance with the seniority indicated in the above chart. 5th paragraph of clause 2-3.04

1. **Continuous service:** no definition of this term appears in the support staff collective agreement, so we have to refer to the definition that appears in the *Labour Standards Act*, article 1, paragraph 12:

«the uninterrupted period during which the employee is bound to the employer by a contract of employment, even if the performance of work has been interrupted without cancellation of the contract, and the period during which fixed term contracts succeed one another without an interruption that would, in the circumstances, give cause to conclude that the contract was not renewed.»

For more information, see the FPSES guide

[“Seniority and time worked or paid”](#)



WHAT SALARY ARE YOU PAID DURING YOUR VACATIONS?

You should receive the salary that corresponds to the class of employment you hold when you begin your vacation.

Example **Employee temporarily assigned to another position**

You occupy a Clerk II position. In the course of the preceding year during which vacation was accumulated, you obtained a replacement position as a Secretary II.

Case 1. When your vacation begins, you are still temporarily assigned to this replacement position.

Q. What should your salary be during your vacation?

A. You should receive the salary of a Secretary II during your vacation.

Case 2. Before you take your vacation, you had to return to you Clerk II position because the person who was absent returned to work.

Q. What should your salary be during your vacation?

A. You should receive the salary of a Clerk II during your vacation.



PROCEDURES FOR THE PART-TIME EMPLOYEE

For the part-time employee, remuneration during vacations is prorated to the hours worked or paid for in the course of period during which vacations are accumulated. The amount of time worked or paid must include all hours worked or paid (except for overtime), as well as all hours worked or paid as an occasional or replacement in your department or any other department of the College, regardless of what kind of duties were performed.

Example: Part-time employee who works extra hours

You are a Clerk I with 9 years of seniority as of June 1.

You are entitled to twenty (20) working days of vacation.

The regular position you hold consists of 21 hours of work per week. During the period in which vacation is accumulated (June 1 of the preceding year to May 31 of the current year), you worked an additional 128 hours as an occasional in another department.

Q. Should these hours worked as an occasional employee be taken into consideration when determining what salary you will receive during your vacation?

A. **Yes**, because according to clause 7-6.12, the vacation salary of a part-time employee is calculated in proportion to the number of hours worked or paid within the year of acquisition.

A.1 If the College did not pay you the 8% vacation compensation for these 128 hours of additional occasional work.

21 hours/week = 1,092 hours/year

If you worked an extra 128 hours during the year of acquisition, you have consequently worked 1,220 hours.

1,220 hours/year ÷ 52 weeks = 23.46 hours/week

What this means is that during your vacation you will be paid the equivalent of 23.46 hours per week, not 21 hours per week.

A.2 If, for these 128 extra hours of occasional work, the College does pay you the 8% vacation compensation at the end of your occasional contract.

21 hours/week = 1,092 hours/year

During your vacation you will be paid the equivalent of 21 hours for each week of your vacation.

Caution: The College should not pay you the 8% compensation for vacation on each paycheque or at the end of your occasional contract, because you are actually in continuous service. This method of payment will reduce your salary during vacation.



It will also reduce the number of hours which count as seniority.

INCREASING THE NUMBER OF DAYS

The collective agreement provides three ways to do this:

- a voluntary reduction of salary;
- the conversion of sick-leave days with cash surrender value;
- the use of non-cashable or cashable sick-leave days.

Voluntary reduction of salary

You can, with the College's agreement, increase the number of weeks of vacation you receive by requesting a reduction of your salary. clause 7-7.04

(Appendix A – Sample letter):

- a salary reduction of 1.93% is equal to one week of vacation;
- a salary reduction of 3.86% is equal to two weeks of vacation.

Note: The College must receive your request before the start of the acquisition period, i.e., before June 1.

<p>Case I submitted a written request for one additional week of vacation. My immediate supervisor refused this request.</p> <p>Q. Is he allowed to refuse?</p> <p>A. Yes, contact your Union to check what the College's policy is with respect to accepting or refusing extra vacation.</p>
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Conversion of sick-leave days with cash surrender value

In May you have unused sick-leave days with cash surrender value. In the month of June you are entitled to convert all or part of these days into vacation days.

4th paragraph of clause 7-14.36

(Appendix B – Sample letter)

In this situation, you must come to an agreement with the College as to when these days of vacation will be taken. 1st paragraph of clause 7-7.06

If no agreement is reached as to when these vacation days can be taken, you can choose either to have these extra vacation days cashable at the rate applicable on the preceding June 30 or transferred into your bank of non-cashable sick-leave days.

3rd paragraph of clause 7-7.06

The use of cashable or non-cashable sick-leave days

If you have surplus sick-leave days in your bank, cashable or non-cashable, you are entitled to use these to increase your vacation, up to a maximum of five days per year. clause 7-6.13

In order to be eligible for this benefit, you must:

- be fifty-five (55) years of age;
- or
- have thirty (30) years of seniority.



WHEN ARE VACATION DAYS LOST?

Loss of vacation days results from certain events which may occur in the year of acquisition.

Vacation days are not lost during:

- a work accident or **occupational illness**;
- a special **preventative leave** of a pregnant or nursing employee;
- an interruption of work due to a **complication of pregnancy** or a **risk of miscarriage**, in both cases a medical certificate is required;
- a **maternity leave** of 21 weeks, if the pregnant worker is entitled to Quebec Parental Insurance Plan (QPIP) benefits;
- a **maternity leave** of 20 weeks, if the employee is eligible for unemployment insurance benefits, or of 20 weeks if she is **not eligible** for either unemployment insurance benefits or QPIP benefits;
- an **unpaid parental responsibilities leave** which is an extension of a maternity, paternity or adoption leave, up to a maximum of 60 working days if she is entitled to unemployment insurance or QPIP benefits: the maximum of 60 working days per year applies in cases where a person takes an unpaid parental leave and an unpaid leave;
- an **adoption leave** for a maximum of 12 weeks;
- a **paternity leave** of 5 working days or the 3 to 5 week QPIP leave;
- one or more **disability** leaves, up to a maximum of 120 working days within a year of acquisition;
- a **gradual return to work from a disability**, for the hours worked;
- a **leave without pay** of a maximum of 30 working days.

clause 7-6.11

Vacation is reduced as a result of:

- a parental responsibilities leave of more than 60 working days;
- a sick-leave of more than 120 working days;
- a leave without pay of more than 30 working days.

↑ Other combinations of events could lead to a reduction of vacation days. But any such events must occur within the year in which vacation is accumulated (June 1 of the preceding year to May 31 of the year in progress).

Formula for reduction of days of vacation

The college will use the following formula when it needs to reduce an employee's vacation:

$$\text{Number of days deducted} = \text{NDV} - \frac{\text{NDV} (260 - \text{NDA})}{260}$$

NDV: the number of vacation days to which the employee is entitled.

NDA: the number days of absence resulting in a reduction of the number of days of vacation.

If the College reduces your vacation allotment, call your Union!

Example 1 Disability within the year during which vacation is acquired

You were on disability leave from August 29 to March 10, 2005 inclusively, which means you were absent for 140 working days in the course of the year of acquisition. Since you have eight years of seniority, you would normally be entitled to twenty working days of vacation.

$$\text{Number of days to be deducted} = 20 \text{ days} - \frac{20 (260 - 140)}{260}$$

$$\text{Number of days to be deducted} = 20 - 18.56 = 1.54$$

In this case, your vacation allotment would be reduced by 1.5 days. This would leave you with only 18.5 working days of vacation.

Example 2 Disability over two years during which vacation is acquired.

You were on disability leave from January 17 to November 11, 2005.

For the year 2004-2005, you were actually on disability leave from January 17 to May 31, 2005, which is 97 working days.

In the year 2005-2006, you were on disability leave from June 1 to November 11, 2005, which is 118 days.

In this case, you would experience no reduction in your vacation allotment for either of the two years, 2004-2005 or 2005-2006, because you were not actually absent for 120 working days in either of the two years of acquisition.



Example 3 Disability and gradual return to work within the year during which vacation is acquired

You were on disability from August 29, 2005 to March 10, 2006 inclusively, which represents a disability of 140 working days within the year of acquisition.

Beginning on January 9, 2006, you were on a gradual return to work as follows:

- from January 9 to 27, 2006: you worked two days per week;
- from January 30 to February 18: you worked three days per week;
- from February 20 to March 10: you worked four days per week.

You consequently worked 27 days during your re-adaptation period. These days entail no reduction of vacation days. They must be subtracted from the total of 140 days, which will leave you with a total of 113 days of absence. You will incur no reduction of vacation days.

Example 4 Maternity and parental leave

You were on maternity leave for 20 weeks, from September 5, 2005 to January 20, 2006. You then obtained an extension of your maternity leave (parental leave) from January 20, 2006 to September 1, 2006.

For the year 2005-2006:

- 100 days of maternity leave (September 5, 2005 to January 20, 2006);
- 88 days of unpaid parental leave (January 20, 2006 to April 25, 2006).

Number of days that can reduce the amount of your vacation = 28 days, because the first 60 working days of an unpaid parental leave do not entail any reduction in vacation days.

$$20 - \frac{20(260 - 28)}{260} = 20 - \frac{20 \times 232}{260} = 20 - 17.85 = 2.15$$

In this case, the result would be a reduction of 2 vacation days.

You would be entitled to eighteen working days of vacation in 2005-2006.

For the year 2006-2007:

- Unpaid parental leave from June 1 to September 1, 2006, which represents 67 days of unpaid leave as of May 31, 2007, because this person was receiving QPIP benefits. The reduction of vacation days will be based on 7 days. If we apply the formula above, there will be a reduction of 0.5 vacation days.

Example 5 Preventive leave for the pregnant worker

In the course of the year during which vacation is acquired (June 1 of the preceding year to May 31 of the year in progress), you were given a preventive leave for the pregnant or nursing worker by virtue of the Health and Safety Act.

In this case, for the entire period of the preventive leave, you will incur no reduction of vacation days.

WHAT ARE THE PRINCIPLES AND PROCEDURES THAT REGULATE VACATIONS?

The right to choose vacation dates

According to the collective agreement, vacation days must be taken in the year subsequent to their acquisition, which is to say any time during the subsequent year. [clause 7-7.02](#)

During the month of April, you must submit your choice of vacation dates to your immediate supervisor for approval.

As much as possible, vacations must be taken, in whole or in part, in periods of at least one week at a time. Taking less than one week of vacation requires the agreement of your immediate supervisor. [clause 7-7.03](#)

College directives that restrict vacation choices

Neither the College nor your immediate supervisor can dictate the scheduling of your vacation. Jurisprudence has established that the employer cannot decree or impose a common vacation period for all employees in a department. (EAS² 1080)

If you can be temporarily laid-off from your job, neither the College nor your immediate supervisor is permitted to decide that you will take your vacation at the time that you are laid-off. An arbitrator has ruled that in such a case the employer would not be respecting the collective agreement because employees have the right to choose when they want to take their vacations. (EAS 5181)

If the director of your service or department advises you that you cannot schedule your vacation after a certain date or that you must schedule your vacation within a predetermined period, **contact your Union.**

Requests for vacation must be submitted in writing

If the College rejects your vacation choices, they must do so in writing. The College's approval **must take into account the employees' choices, by order of seniority, "subject to the needs of the service"**.

Common interpretation of the collective agreement suggests that the general rule is that the employee's choice of vacation is accepted, **refusal** due to the needs of the service **being the exception**. If your choice is refused, it's up to you to discuss the merits of your request with your immediate supervisor. If there is still no agreement, we suggest that you **contact your Union**.



² EAS : Education sector arbitration sentence

The needs of the service

How can the needs of the service be defined? Many arbitrators have ruled on this subject.

In sentence EAS 4098, the arbitrator defined the needs of the service as follows:

«Exceptional situations where it would be especially difficult, if not impossible, for the College to provide the services it must provide.»

In a period of normal activities, for example, when a technician takes a vacation when classes are in session, it is up to the College to find a solution. If circumstances make it impossible to find a solution and the functioning of the department would be paralyzed, the College would have the right to refuse the technician's choice of vacation.

«The collective agreement does not exclude replacement solutions that would entail additional costs.»

In other words, the cost of replacing you while you are on vacation cannot be used to restrict your choice of vacation. This is a false notion that some local administrations believe to be true.

You have to ask yourself the following questions:

- In other circumstances in the past, has the College replaced you?
- If the answer is yes, is the College able to replace you with one or more people (occasional or student employees) capable of performing the duties of your class of employment during your vacation period?

In EAS 4671, the College refused an employee's choice of vacation because it would have preferred that the employee be present during the registration period. In this case, the arbitrator ruled that:

«The College must justify its refusal of an employee's choice with convincing reasons which demonstrate that the absence could seriously compromise the needs of the service. The needs must be urgent. The College must justify, not only by demonstrating a genuine perception, but by proving the existence of a real and probable situation which requires the presence of a specific employee.»



DISABILITY OR WORK ACCIDENT BEFORE A SCHEDULED VACATION

You have injured yourself or have had to be hospitalized the weekend before your vacation was scheduled to begin. Are you allowed to postpone your vacation to a later date?

The expression “*absent from work at the time when the employee would have taken his vacation*”, which is implicit in clause 7-7.02, refers to a person whose disability occurred before the beginning of his vacation.

In the following arbitration sentence:

«The arbitrator ruled that the intent of clause 7-7.02 was to allow the employee to benefit completely from his vacation. The collective agreement gives this person the right to postpone his vacation. The arbitrator concluded that the employee’s disability occurred during his weekend break, before the start of his vacation. The person must be considered to have been absent from work at the time his vacation would have begun. Consequently, the employee could postpone his vacation to a later date, as long as this vacation was chosen in accordance with the terms of the collective agreement.»

HOSPITALIZATION DURING A VACATION

If you are hospitalized (with a medical certificate as proof) during your vacation period, you can postpone to a later date the portion of your vacation for which you were hospitalized, as well as any period of disability that may have followed the hospitalization. [clause 7-7.02](#)

If you were not actually hospitalized, this same principle would apply to home care, as long as a medical certificate is provided.

CALLED BACK TO WORK DURING A VACATION

If the College asks you to come in to work during your vacation, the collective agreement states that:

- you will be paid 200% of your salary for the hours worked;
- and
- you will be allowed to take the equivalent amount of time off as vacation [clause 7-7.05](#)

Example

You are on vacation from July 2 to July 31 inclusively, and your immediate supervisor requests that you to come to work to make an urgent repair. You accept, and you work from 9:30 a.m. to 1:30 p.m. How will you be compensated for this work?

You will be paid four hours at double time (200%) and the four hours of your vacation can be taken at a later date or at the end of your current vacation period. You must, of course, come to an agreement with your immediate supervisor as to when these four hours will be taken.



Voluntary reduction of salary

Date

Human Resources Department
..... College

Subject : Voluntary reduction of salary

TO WHOM IT MAY CONCERN:

In accordance with clause 7-7.04 of the collective agreement, I am requesting an additional week (**two weeks**) of vacation. In order to do this, I accept that my salary be reduced by 1.93 % (**3.86 %**).

I hope that this arrangement will be acceptable.

Yours truly,

Employee's signature



cc: Union

Conversion of sick-leave days with cash surrender value into vacation days

Date

Human Resources Department,
..... College

Subject: Conversion of sick-leave days with cash surrender value into vacation days

TO WHOM IT MAY CONCERN:

In accordance with clause 7-7.06 of the collective agreement, I am requesting to convert sick-leave days with cash surrender value not used as of June 30 into additional vacation days as permitted by clause 7-14.36 4th paragraph.

I would be taking these additional days of vacation during the following period: from to inclusively.

I hope that this arrangement will be acceptable.

Yours truly,

Employee's signature



cc: Union