



## WHAT IS THE CAMPAIGN TO ENFORCE THE STAFFING LANGUAGE ABOUT?

The campaign to enforce the staffing language is about collecting the evidence to build strong grievances that can go to arbitration if necessary.

The collective agreement language is strong and requires safer staffing.

But it is only strong if it is enforced. The onus is on the employees and the union to prove when the language is being breached if we want the Employers to comply.

That means we have to carefully document incidents where the obligations in the language are not met and take the best cases forward to arbitration.



## Acute Care / Long Term Care Staff Replacement

Employees on vacation WILL be replaced except where the service levels are reduced (e.g. clinic closure, operating room closure, operating room slow down). The Employer WILL make all reasonable efforts to replace vacation leaves using regular relief/float positions, where possible.

Employees on long term leaves (e.g. maternity leave, LTD) WILL be replaced. The Employer WILL make all reasonable efforts to replace these long term leaves using regular relief/float positions or temporary postings.

### 1. Overview of the “Acute Care/Long Term Care Staff Replacement” provision

The “Acute Care/Long Term Care Staff Replacement” provision requires that nurses who are on vacation or a long term leave be replaced. The Employer must make all reasonable efforts to replace these nurses with other nurses in regular positions, either through relief/float positions or temporary postings. If they are not able to replace with regular positions or temporary postings, even using reasonable efforts, they may replace with a casual instead.

### 2. Who is covered by the “Acute Care/Long Term Care Staff Replacement” provision?

The “Acute Care/Long Term Care Staff Replacement” provision applies to RNs/RPNs in acute care or long term care facilities. It does not apply to community nurses.

### 3. Does the “Acute Care/Long Term Care Staff Replacement” provision apply to LPNs?

No. This language only applies to RN/RPNs covered by the Nurses Bargaining Association Collective Agreement.

### 4. The “Acute Care/Long Term Care Staff Replacement” provision says that employees “will” be replaced but in the second sentence it says that the Employer “will make all reasonable efforts”. What does that mean?

“Will” means an absolute requirement, something that absolutely must be done.

“All reasonable efforts” means that the Employer has to really try. They have to take all the steps that a reasonable employer who was trying to do something would take. It’s not an easy test – there has to be genuine effort and usually some resources devoted – but in the end, it’s not an absolute requirement.

In this language, employees on vacation will be replaced. So that part is an absolute requirement.

Employers will make all reasonable efforts to replace vacation leaves using regular relief / float positions, where possible. So it is not an absolutely requirement that replacement be done using regular relief / float positions. The Employer has to genuinely try and take reasonable steps to do that but if they can’t, they can use a casual or a nurse on overtime.

**Scenario:** Nurse A works on a large acute care unit. The combined annual vacation entitlement of the nurses on the unit is 1.5 FTE. Nurse B works in a long term care facility where there are 3 nurse FTEs. Both nurses go on their prescheduled vacation in October.

Both nurses must (will) be replaced while they are on vacation. But the Employer is probably required to replace Nurse A using a regular relief or float position. With reasonable effort, the Employer ought to be able to anticipate vacations and create appropriate regular relief position(s) to cover at least most of the vacations on that unit. Nurse B can probably be replaced with a casual nurse or partly by her coworkers working overtime. Even with reasonable efforts the Employer likely won’t be able to create and fill a regular position to replace the approximately 12-24 weeks of vacation that are scheduled at various time throughout the year for the 3 nurses.



## Acute Care / Long Term Care Staff Replacement

### **5. The second paragraph about long term leaves in the “Acute Care/Long Term Care Staff Replacement” provision refers to replacing using temporary postings but the first paragraph about vacations does not. Why?**

The Employer is required to make all reasonable efforts to replace long term leaves using regular relief/float positions or temporary postings. The requirement to make all reasonable efforts to replace using temporary postings does not apply to vacations because vacations are generally not long enough to justify the creation of temporary positions.

### **6. What kinds of absences have to be replaced under the “Acute Care/Long Term Care Staff Replacement” provision? What counts as a “long term” leave?**

There are two separate types of absences described in this language. The first is vacation. There is no reference there to a requirement that that the vacation be long term. Employees on vacation of any length are required to be replaced.

Employees on long term leaves must also be replaced. The provision specifically refers to maternity leave and long term disability (LTD) but those are just examples. Other similar types of leave are also included. Leaves that would be considered similar are those that are relatively long in duration (probably measured in months rather than weeks) and where the employee is expected to return to their position. Other examples could include union leave for long term union positions and secondments.

### **7. Are there any exceptions to the requirement to replace vacations and long term leaves under the “Acute Care/Long Term Care Staff Replacement” provision?**

The only exceptions to the requirement to replace vacations and long term leaves are:

- Worksites where the language doesn't apply, that is, in the community.
- Situations where the service level has been reduced, e.g. clinic closure, operating room closure, operating room slow down. This requires an objective operational reduction in service that results in fewer patients, not just a generally slower period of time.

### **8. Can vacation and long term leaves be replaced by an LPN under the “Acute Care/Long Term Care Staff Replacement” provision?**

No, the Employer is not permitted to replace an RN/RPN with an LPN. This collective agreement language currently only applies to RN/RPNs and the replacement must be with another nurse covered by the same collective agreement.

### **9. A nurse on our unit just retired. Does the Employer have to replace her?**

The Employer has the authority to decide what the baseline staffing for a unit is and can decide to reduce it. That means that, unfortunately, the Employer does not necessarily have to replace a nurse who retires or otherwise leaves the workplace. However, the overall number of nurse FTEs in the system may not decrease and is required to increase by 2125 FTE by March 31, 2016.

### **10. What remedy do we get if the Employer does not replace an absence under the “Acute Care / Long Term Care Staff Replacement” provision and our grievance is successful?**

The goal of this language is to have nurses who are absent replaced so other nurses aren't working short, they don't return to increased workloads, and patient care needs are met. The purpose is not to achieve a financial remedy for individual nurses.

However, we should be collecting information about nurses who were available and were not called and claiming payment as a remedy for those nurses. If there are any other financial consequences to the failure to replace for individual nurses we should be claiming those as well. It is particularly important where there are ongoing breaches of this language to demonstrate that there are consequences to breaching the collective agreement.

***These interpretations are provided on a without prejudice, errors and omissions basis to any position the BCNU or any Union in the Nurses' Bargaining Association may take.***