



# **Presentation to the Task Force on the Workers' Compensation System**

by

The Newfoundland and Labrador Teachers'  
Association



January 19, 2001



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## Introduction

As stated in your paper,

"The Commission operates a **no-fault** insurance system which guards against occupational injury, disability and fatalities. ....The system is funded entirely by employers and in return for entitlement to **adequate benefits** under the Workplace Health, Safety and Compensation Act (the Act), injured workers and dependents give up their right to sue employers for injuries arising from their employment." (**Discussion Paper**, pg.2, *emphasis added*).

We would unequivocally disagree with the terms "no-fault" and "adequate benefits". As a result of the legislative amendments to the Workers' Compensation System in 1995, unionized workers in the Province of Newfoundland and Labrador such as teachers, who were once covered under negotiated "Injury on Duty" provisions contained within the Provincial Collective Agreement with the Provincial Government, have suffered tremendous and unacceptable financial reductions, especially those whose annual income bracket exceeded the \$45,500 ceiling established under the Act. Even for employees whose salaries did not exceed the ceiling, the current 80% of pre-injury net earnings calculation has placed undue financial, emotional, and psychological hardships on individuals who are forced onto Workers' Compensation benefits. It goes without saying that *the introduction of Workers' Compensation legislation did indeed relieve employers of their obligations to injured employees and provided them with protection from further criminal or civil actions by the injured employees and/or their dependents. However, it can easily be demonstrated that the system has failed injured employees, such as teachers and other public sector workers, miserably since it has not protected them from an inadequate and under-funded compensation system.* It is therefore rationally conclusive that injured workers within our province have been severely penalized by such inadequacies while added protection is in place for negligent employers.



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## I. Preventative Strategies

Many employers throughout our Province have spent considerable time and resources in developing, implementing, and promoting preventative workplace strategies aimed at reducing and eliminating workplace injuries and illnesses. Those who have taken on such initiatives pride themselves on being accident and/or injury free over extended work periods. Unfortunately for the employees represented by the NLTA, many of these employers are involved in private industries and the commercial sectors of the economy and not in teaching or the public education system. If we consider the assessment rates for the mining and pulp and paper industries, as described in the **Discussion Paper - Appendix II: Classification of Industries & Assessment Rates**, it is obvious from the assessment rates established that employers who have, over the years, placed an emphasis on safety and accident prevention pay much lower assessment rates than those who have not.

It seems obvious from an educator's perspective that the industrial and commercial sectors of the economy invest substantial amounts of time and energy into their human resources pool, thus considering their employees and the preventative programs and strategies which they support, as investments into their future prosperity. The employees, injured or not, are considered assets worthy of such consideration and attention. Neither the Department of Education nor the eleven (11) school boards represented throughout the Province have placed similar emphasis on injury prevention strategies for the teachers which they employ. Teacher-requested professional development opportunities, requiring the prior approval of either the Department of Education or School Board district office personnel, for the most part, will only be accepted if the activity to which the teacher is requesting leave is directly or indirectly related to a particular program of studies for which the teacher is responsible for delivering in the classroom. Very few, if any, teacher-requested professional development leaves are approved for teacher participation in injury prevention strategy workshops or other non-curricular related activities. Given the increasing numbers of Special Needs and regular classroom teachers who are, as a condition of their employment, required to lift and assist disabled and handicapped children, preventative strategy workshops should be a mandatory requirement of the position and such training should be provided by the School Board. From a teacher's perspective, the development and implementation of such programs should be a legislative requirement of the Workers'

Compensation System in the Province.

In order for such an inequity to be addressed in the teaching profession, the School Boards and/or the Department of Education should be required to provide sufficient time and resources during the work day for teacher input and participation into such prevention programs. School Board - teacher collaboration would be essential at both the development and implementation stages in order to ensure that such programs are successful in addressing the needs of the teaching profession.

### **Recommendation 1**

**Employers covered by the Workers' Compensation Act shall be responsible for the development and implementation of injury prevention workplace strategy programs. During both the development and implementation stages of such programs, sufficient opportunity shall be provided to employee representative(s) for ongoing collaboration.**

### **Recommendation 2**

**Employers covered by the Workers' Compensation Act shall provide adequate time and resources during the defined workday for each employee to actively participate in preventative workplace strategy programs.**



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## **II. Occupational Health and Safety Committee**

For the most part, Occupational Health and Safety (OH&S) Committees in the public school system exists in name only. School Boards often have established such committees, however, they are seldom active and/or functional. Given the nature and composition of most OH&S committees, it is evident that they can play a major role in determining which areas or activities in the workplace create the most safety concerns. These Committees can also play a lead role in the development of strategies which might be needed to efficiently and effectively address the area of concerns raised.

### **Recommendation 3**

**Every employer shall have an active  
Occupational Health and Safety (OH&S)  
Committee with employee representation.**



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## **III. Self Insurers**

Since the Workers' Compensation System is established to be "cost neutral" to all participants, self insurers, such as the provincial and federal governments, do not contribute to either a "deficit" or a "surplus" in the plan. They are paying their fair share. However, given the present funding problems and less than acceptable employee benefit levels, it is obvious that those who are included in the system are not. If all employers were contributing sufficient premiums to the Workers' Compensation program to offset the real costs associated with such a system, we would not be experiencing the current financial problems. Additional comments and recommendations are included in the following section "Unfunded Liability".



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## IV. Unfunded Liability

As stated in the **Discussion Paper**, "the financial stability or level of health of a workers' compensation system is often measured by its unfunded liability ....." (Page 6). The creating of a projected \$392 million unfunded liability problem by 2005 is one which requires serious attention and creative planning. As the Association representing all teachers throughout the province, especially those who have experienced or who currently suffer major financial hardships while in receipt of Workers' Compensation benefits, the NLTA **WILL NOT** support any recommendation which would suggest a further reduction in the wage-loss benefit rate paid to injured workers. The NLTA would strongly oppose having the current Workers' Compensation wage-loss benefit level reduced from 80% to an amount "between 60% and 65% of pre-injury net earnings". **(Discussion Paper, Page 6)** The NLTA has always strongly objected to both the 80% calculation rate currently applied to the level of wage-loss benefits and the \$45,500 annual salary cap currently applicable under the Act and Regulations. The Association strongly feels that the 80% level is inadequate and a cap of \$45,500 on salary is discriminatory.

As stated in the previous section, the Workers' Compensation system should be funded in such a way that it is "cost neutral" to all participating employers. It is quite evident that the present system is failing in this area. In order to achieve a "cost neutral" system, it becomes obvious and necessary for employers who operate in high accident and/or high injury risk environments to pay much higher premiums than those who do not. Remember, employers who are governed by Workers' Compensation legislation **did not** give up their obligation to pay sufficient premiums to such a system in order to offset the cost of injury associated with an injured employee. By accepting such a system, employers **did agree** to accept the costs associated with operating such a system, in exchange for knowing that an injured employee had given up his/her right to pursue legal actions. It is, therefore, realistic and rational that employers be charged a premium reflecting the **true costs** associated with the risks associated with their occupation. If employers were charged rates reflective of such risks, many would become more involved in developing, implementing and maintaining accident and injury preventative strategies and workshops. Many employers would also have more pro-active Occupational Health & Safety Committees and Return-to-Work Programs. In turn, the employers would realize a reduction in the costs of accidents and injuries, thus a reduction in the rate of assessment applicable to them. Being charged appropriate



rates of assessment are reason enough for employers to take more ownership of problems associated with accident-prone and injury-prone workplaces and to become more pro-active in addressing them.

Secondly, nowhere within the **Discussion Paper** is there any reference to how the premiums paid to Workers' Compensation are invested, nor the rate of return realized on such. Therefore, it is difficult to comment. However, given the dollar value of the premiums received by Workers' Compensation, the NLTA would strongly encourage that the investment advisors to Workers' Compensation conduct a thorough review of the current financial investment strategies and make whatever changes are necessary to the investment portfolio in order to achieve maximum financial gains on the funds invested.

#### **Recommendation 4**

**A thorough review of the present Classification of Industries & Assessment Rates structure be conducted with emphasis on developing a structure which reflects the true risks associated with each occupation defined in the employer rate groupings.**

#### **Recommendation 5**

**A biennial review of the Classification of Industries & Assessment Rates structure be conducted to evaluate whether or not the employer rate grouping are sufficient to offset the costs and risks associated with each occupation.**

#### **Recommendation 6**

**A thorough review of the Workers' Compensation investment portfolio be conducted with the primary emphasis on increasing investment revenues.**



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### V. Waiting Periods

Spending a period of time away from the workplace while awaiting adjudication of a Workers' Compensation claim is one of the most frustrating experiences encountered by individuals. Teachers, like other unionized workers who have negotiated a sick leave provision, often avail of this benefit while awaiting a decision by the Workplace Health, Safety and Compensation Commission. From the time the injury is first documented and reported to Workers' Compensation until the worker receives final approval of the claim, it is conceivable that ten (10) to fifteen (15) days and longer have elapsed. Since the injured teacher receives full salary benefits while in receipt of their paid sick leave benefit for that period, the individual begins receiving their entitlement to Workers' Compensation wage-loss benefits with a large sum of money being deducted to repay the difference between sick leave salary entitlement and Workers' Compensation wage-loss benefit. For those who have had to repay such large sums of over-payment while in receipt of wage-loss benefits, every day living is often very difficult if not practically impossible. Many times injured workers are forced to withdraw all the savings they have accumulated prior to the injury, while others often have to depend on relatives and friends to make ends meet. This dependency on others destroys one's dignity and places undue stress and hardship on the injured worker.

From an NLTA perspective, a teacher who is required to wait a period of time for the adjudication of a Workers' Compensation claim should not be required to repay the difference between monies received via another source such as sick leave. An injured worker should not have to pay for the inefficiencies associated with the present system. The NLTA strongly recommends that workers who can avail of a sick leave benefit be permitted to access their sick leave benefits while awaiting the decision of Worker's Compensation without having to repay the difference in the rates. This option will not only help the injured worker, but will help eliminate the administrative cost associated with assessing and approving short-term claims and with calculating and collecting the current over-payment of benefits.

#### **Recommendation 7**

**Injured workers while awaiting final decision of a Workers' Compensation application shall be permitted to access sick leave benefits, if available, without having to repay the daily rate difference between sick leave benefits and the wage-loss benefits as calculated by Workers' Compensation.**



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## VI. Indexing

The degree to which an individual invests in everyday living is reflected in the level of income one receives. As with any form of income benefit, minimum increases are necessary in order to keep pace with the annual Consumer Price Index (CPI). It is an accepted fact that with any source of fixed income, inflation will soon devalue the income received, thus placing serious stresses and pressures on one's financial ability to maintain even the necessities of life. To eliminate this concern, there is a need to implement a mechanism that will assure every individual in receipt of Workers' Compensation wage-loss benefits that their ability to maintain a reasonable lifestyle will not be permitted to deteriorate due to inflation.

Indexing, especially for those who are required to avail of Extended Earnings Loss Benefits, should be a non-debatable issue. Given the fact that inflation has increased by approximately 28% over the past ten years, if one is struggling today to make ends meet while receiving the present level of wage-loss benefits, then without any form of indexing, survival would be difficult, if not impossible over the next ten (10) year period. Indexing of Workers' Compensation benefits must be granted, unquestionably.

### **Recommendation 8**

**All monetary benefits payable under Workers' Compensation to an injured worker shall be increased annually at a rate greater than or equivalent to the Consumer Price Index (CPI) rate for the given year.**



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## VII. Benefit Levels For Injured Workers

As outlined in the Act and Regulations governing Workers' Compensation, the present Workers' Compensation System pays both wage-loss benefits and health care cost to an injured worker. However, not stated in your **Discussion Paper** is the maximum salary on which the wage-loss benefit is calculated, nor the limits which are placed on the number of visits permitted under the policies applicable for certain types of medical care. As stated previously, the NLTA strongly opposes both the maximum 80% level currently used in the calculation of wage-loss benefits and the maximum \$45,500 cap placed on salary.

Both restrictions seriously impact on our members and must be eliminated or increased substantially. Based on the most current Provincial Government's **Department of Education's 1999- 2000 Education Statistics**, there were 6,372 full-time teachers (excluding substitute teachers) employed in the public school system in the province during the 1999-2000 school year. (See **Table A: Teacher Distribution** attached) If we were to carefully examine where these teachers were with respect to the overall distribution of teachers on the annual salary scale, we can accurately conclude that 3,609 teachers were earning an annual salary in excess of the \$45,500 limit established under the Workers' Compensation Act and Regulations. This represents approximately fifty-seven (57%) of the permanent teaching force in our province who would be negatively impacted by the salary restriction. This, we feel, is unjust, unfair, and discriminatory and must be eliminated.

By removing the \$45,500 salary cap on employee wage-loss benefit calculation, Workers' Compensation will have to, in turn, adjust the payroll on which the assessment rates are charged to the employers. Professional employees, such as teachers, or any employee earning over \$45,500 should not be penalized because of the income bracket they have achieved in their career. Individual lifestyles are governed by one's level of income. Remember, since we all agree that the Workers' Compensation System is established as a "no-fault system" for the employers, it should also be a "non-reduced standard of living system" for the employees so affected. For a one-income teacher family who has maintained a certain standard of living based on an annual income of \$55,000, it becomes financially devastating when forced onto the present Workers' Compensation System. Even though wage-loss benefits are non-taxable, the reduction in income on a bi-weekly basis for the majority of teachers would not even pay for the necessities

of life and other fixed costs one would be required to maintain.

For example, a teacher who is presently earning at the top of the 7th Grade salary grid is paid a gross salary of \$56,716. This teacher would have a Masters Degree (7 years university training) with at least eleven (11) years of teaching experience in the public school system. If the individual were in receipt of Workers' Compensation wage-loss benefits, s/he would receive a "take-home" net income benefit of approximately 56% of his/her pre-injury net income earnings. Remember, s/he would be immediately penalized over \$11,000 because of the salary cap before the 80% net pay is calculated. (Refer to **Table B: Teacher Distribution on Current Salary Scale**).

Teachers, like other public servants also pay for group insurance coverages, such as health, dental, life, accidental death and dismemberment, etc.. They also maintain pension premiums based on the salary they would have been making if it were not for the injury, and they maintain other payroll deductions. All these regular fixed costs are deducted from the present 80% Workers' Compensation wage-loss benefit calculation before the net wage-loss benefit is paid to the individual teacher. After all of the regular pre-injury payroll deductions are subtracted from the wage-loss benefit, the individual is often left with an amount insufficient to cover other regular household fixed costs, such as a mortgage, groceries, electricity, telephone, heating fuel, gasoline, etcetera. As a result, the everyday lifestyle to which one had grown accustomed soon vanishes and is often replaced by the stresses of providing the necessities of life. The individual's self-esteem and dignity is soon destroyed. The present structure of the Workers' Compensation System is therefore unfair and unjust and must be addressed by this Task Force.

Over the past ten (10) years, teachers have suffered severe financial hardships as a result of legislative wage freezes, an approximate 28% increase in inflation, reduced spending power, and the legislative introduction of an under-funded Workers' Compensation program. By placing a limit of 80% on one's wage-loss benefit and limiting the salary one can use for such calculations, teachers, like others throughout the Province who have earnings above \$45,500, have experienced additional undue and unacceptable financial hardships.

"In the interests of current and future injured workers, in particular, it is critical to strike a balance between **what is fair and equitable**, but also what is **financially sustainable?**"  
(**Discussion Paper**, Page 9, parenthesis added)

The NLTA strongly insists that the present system and level of wage-loss benefits payable are neither "**fair**" nor "**equitable**" for teachers and other employees so affected. Given the above statement, one must ask the questions: (i) "To whom is the system fair and equitable?", (ii) "Should we not also ensure that injured workers who are in receipt of Workers' Compensation benefits do not encounter undue financial

hardships?", and (iii) "Should we not be concerned about whether or not the lifestyle of an injured worker is financially sustainable while in receipt of Workers' Compensation benefits?". From an injured worker's perspective, the present system is definitely not fair, nor equitable given the alternative that was available prior to the introduction of Workers' Compensation legislation: the ability to sue for damages. A "no-fault" system of insurance which clearly protects the employers from costly legal suits should also protect the injured worker from the shortcomings created by an under-funded and inefficient system. Unfortunately, the present system does not.

### **The Stated Purpose and Intent of the Reduction in Workers' Compensation Benefits**

From the information put forward by the Department of Labour when the Workers' Compensation Act was amended in the early 1990's, the main purpose of the amendments were to put the Workers' Compensation system on a stable financial footing. What then was the necessity for the further amendments which came effective for teachers in 1995? "Top-up" provisions in Collective Agreements are not a financial drain on the Workers' Compensation system. Such a "top-up" is provided by the employer to make up for the loss of salary incurred by the employee under the Workers' Compensation Act. What the amendments to the Act have done is to provide a windfall financial gain for employers who had negotiated collective agreements to provide such "top-ups". In the case of teachers, that employer was the same Government who passed these Workers' Compensation Act amendments. Government is "self-insured" for instances of employee Injury on Duty. That is, Government continues to provide the salary and benefits as an employer and uses the Workers' Compensation Commission on a fee-for-service basis to investigate and process the Injury on Duty claim. Hence, when a teacher is injured on duty, the effect of the reduced level of income imposed by the Workers' Compensation Act prohibition on "top-ups" is that Government saves that portion of the teacher's salary and also saves the income taxes that would have had to be remitted to Revenue Canada on behalf of that teacher - a not insubstantial financial gain for Government as an employer.

Again we raise the question: If the intent of having a lower salary level for workers on Injury on Duty leave was to place the Workers' Compensation system on a more stable financial footing, why was it necessary for Government to interfere with "top-up" provisions negotiated in already existing collective agreements?

### **Recommendation 9**

**The rate of Workers' Compensation wage-loss benefits paid to an injured worker shall be one hundred percent (100%) of pre-injury net income earnings.**

### **Recommendation 10**

**Workers' Compensation wage-loss benefit**

calculations shall be based on an injured worker's total net salary and there shall be no maximum salary level established on which the benefit is calculated.

### **Recommendation 11**

The premiums paid to the Workers' Compensation System by each employer shall be calculated based on the applicable rate of assessment and the total gross income earnings of all employees.

### **Recommendation 12**

The Workers' Compensation Act be amended in order that the legislation not interfere with negotiated "top-ups" to the level of Workers' Compensation benefits.



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### **VIII. Deeming**

The concept of deeming from an employee's perspective is obviously very different than that held by most employers. This issue, as you are aware, received a thorough review during the 1996-97 Statutory Review Report - A Time to Focus. At that time, workers expressed the following concerns:

(i) "they feel deeming decisions do not consider such factors as whether the worker can realistically compete for work or whether actual job opportunities exist"; (ii) "deeming decisions are arbitrary and inconsistent, and that unrealistic wage information is used" (iii) "standards and use of medical evidence that do not focus on specific occupational goals"; (iv) they are "uninvolved and uninformed in the decision-making process"; and (v) they "view deeming decisions as cost reduction measures aimed at getting them off the system." (Statutory Review Report, pg. 2)

On the other hand, employers suggested in the report "that when deeming occurs, more than one suitable occupation should be identified within the geographic region of the worker's place of residency" and that "the availability of employment or the guarantee of employment should not be a factor in the deeming process"(pg.2). These are obvious two totally different perspectives. From an NLTA perspective, the responsibility of this Task Force is to find some compromise between these two positions.

Again, as stated in previous sections, employers must remember the alternative that injured workers had taken away with the introduction of Workers' Compensation legislation and thus must accept more responsibility for the injuries which causes an injured worker to often experience unjust financial hardship and major adjustments in life styles. Deeming one's capacity to work in an occupation other than that from which the injury occurred is a means by which the employer does not accept a reasonable level of responsibility, especially when it has not been fully determined if the injured worker could be accommodated into his/her previous occupation. The NLTA agrees that deeming is necessary in order to determine one's capability of earning a full or partial income level. However, it does not support the idea that employers, given the degree to which a person can perform, can forget about accommodating the injured worker simply because s/he cannot perform at 100% of pre-injury capacity. Once a person's work capabilities have been assessed, the employer must be required to make every effort to accommodate the injured employee into his/her previous place of work before the deeming of one's capabilities to other suitable occupations is considered. Other occupations shall be considered only after there is agreement between the injured worker, medical professionals, officials from Workers' Compensation and the employer that every effort has been made and it has been determined that it is impossible to re-



integrate the injured worker back into their original place of employment without causing severe undue hardship to the employer.

There are other issues related to deeming which warrant serious attention. First of all, in order for the deeming criteria to be acceptable to an employee, medical assessments and medical evidence must be more seriously considered by the Commission when determining what an injured person is capable of doing. Often times, it is the perception that the Commission cannot medically justify to an injured worker the level to which one's capacity to earn an income has been determined nor the reasonableness which exists in the comparison between the skills required for a particular occupation and those possessed by the injured person.

Secondly, the Commission must consider whether or not a particular occupation is available to an injured worker before deeming them capable of such and proceeding to reduce their Workers' Compensation benefits accordingly. One must not forget that if it were not for the injury, the individual would still be earning a living and would not require, as often is the case, a major adjustment in lifestyle. If deeming recommends a partial or full-time return to work, the injured worker and sufficient medical personnel must be involved in determining which occupations are suitable given the conditions and limitations of the individual. A more thorough and valid assessment of what constitutes a "suitable" occupation must be completed. The practice of considering only physical capabilities and academic qualifications remains unacceptable. Individuals who can no longer provide the same standard of lifestyle to themselves and their families as they did prior to an injury do not experience any level of satisfaction or comfort if deemed suitable to work at an occupation that is not available and that requires skills which are not comparable to the skill level possessed by the individual.

### **Recommendation 13**

**The Workplace Health, Safety and Compensation Commission must medically determine the capabilities of injured workers to earn a full or partial income.**

### **Recommendation 14**

**After medically determining the extent to which an injured worker is capable of earning a full or partial income, every effort shall be provided to accommodate the injured employee into their original place of work. Alternate employment shall only be considered after it is determined that an injured worker cannot be accommodated in his/her pre-injury workplace.**



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## IX. Duty to Accommodate

As a follow-up to the previous section, the duty of an employer to accommodate (re-integrate) an injured worker back into their original place of work should be a legislated responsibility. Too often employers turn their backs on injured workers and are very reluctant to consider any form of accommodation in the workplace. Often employers have the attitude that if an injured worker is unable to perform at 100% of their pre-injury level status, then s/he is more of a liability in the workplace than an asset. Also, more often than not, employers take the position that any form of adjustment that is necessary to accommodate an injured worker creates undue hardship for them. This kind of attitude and reluctance should not be tolerated. It has no place in today's society and should not have to be challenged to a Human Rights Commission. The NLTA strongly insists that legislation be introduced which will require all employers to make every effort to accommodate and re-integrate an injured worker back into his/her original workplace before any consideration is given to accommodating the injured worker in a different occupation. Also, before another occupation is considered, the requirement to complete "every effort" should be demonstrable. The injured worker must be included in all discussions and decisions which occur during the deeming process.

To aid in the accommodations, the Workers' Compensation System should also be required to provide both the employees and employers with the necessary financial assistance and/or resources to assist in the re-integration process.

Legislation should also be introduced requiring all employers to support and provide a variety of Return-to-Work Programs and Supports. Presently, School Boards are often reluctant to consider minor modifications to a teacher's schedule or workplace or to give consideration to Ease Back and/or Trial Work programs. The attitude is often "if the teacher cannot return to work full-time, we're not interested in having them back at all". As a result of this kind of attitude, two questions beg to be answered: (i) Who is **really suffering or experiencing undue hardship** under these circumstances?" and (ii) "What additional financial liabilities are placed on the Workers' Compensation System because of the unwillingness on the part of employers to participate in such programs?". Legislative requirements are thus necessary if employers are to accept responsibilities in their "duty to accommodate" an injured employee.

### **Recommendation 15**

**Legislative requirements shall be introduced to the Workers' Compensation System to ensure that employers are required to make every effort to accommodate the re-integration of an injured worker back into his/her pre-injury workplace.**

### **Recommendation 16**

**The Workers' Compensation System shall provide an injured worker and his/her employer with the financial assistance and resources necessary to make adequate modifications to his/her original place of work in order to re-integrate an injured worker back into the workplace before deeming is considered.**

### **Recommendation 17**

**All employers in the Province shall be required to develop and implement Return-to-Work Programs and Supports for injured employees.**

### **Recommendation 18**

**An injured worker shall be included in all discussions and decisions during the re-integration process and shall have the right to appeal the decision(s) of Workers' Compensation officials during any stage of the process.**



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## **X. Conclusion**

The Workers' Compensation process is necessary as a protection for many workers injured on the job with no other alternatives available, such as sick leave. However, the process must not be permitted to remove the dignity of injured workers or to fail to consider all aspects of the worker's recovery; financial, psychological, physical and emotional. Only when due consideration is given to all these aspects of recovery will the Workers' Compensation Act and accompanying regulations, policies and procedures become a suitable process for the treatment of injured workers. Reduction of benefits and/or the reluctance of employers to accommodate injured workers and their dependents should not be the solution to an under-funded Workers' Compensation System. All employers **MUST** take more responsibilities, be more accommodating, and pay additional premiums, if necessary, in order to pay their fair share to a system that is established to protect them from further legal recourse and to provide reasonable benefits to injured employees. We strongly encourage the Task Force, in its deliberations, to seriously consider each of the recommendations contained herein.



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## **SUMMARY OF RECOMMENDATIONS**

- 1.** Employers covered by the Workers' Compensation Act shall be responsible for the development and implementation of injury prevention workplace strategy programs. During both the development and implementation stages of such programs, sufficient opportunity shall be provided to employee representative(s) for ongoing collaboration.
- 2.** Employers covered by the Workers' Compensation Act shall provide adequate time and resources during the defined workday for each employee to actively participate in preventative workplace strategy programs.
- 3.** Every employer shall have an active Occupational Health and Safety (OH&S) Committee with employee representation.
- 4.** A thorough review of the present Classification of Industries & Assessment Rates structure be conducted with emphasis on developing a structure which reflects the true risks associated with each occupation defined in the employer rate groupings.
- 5.** A biennial review of the Classification of Industries & Assessment Rates structure be conducted to evaluate whether or not the employer rate grouping are sufficient to offset the costs and risks associated with each occupation.
- 6.** A thorough review of the Workers' Compensation investment portfolio be conducted with the primary emphasis on increasing investment revenues.
- 7.** Injured workers while awaiting the final decision of a Workers' Compensation claim shall be permitted to access up to fifteen (15) days of sick leave benefits without having to repay the daily rate difference between sick leave benefits and the wage-loss benefits as calculated by Workers' Compensation.
- 8.** All monetary benefits payable under Workers' Compensation to an injured worker shall be increased annually at a rate greater than or equivalent to the Consumer Price Index (CPI) rate for the given year.
- 9.** The rate of Workers' Compensation wage-loss benefits paid to an injured worker shall be one hundred percent (100%) of pre-injury net income earnings.
- 10.** Workers' Compensation wage-loss benefit calculations shall be based on an injured worker's total net salary and there shall

be no maximum salary level established on which the benefit is calculated.

**11.** The premiums paid to the Workers' Compensation System by each employers shall be calculated based on the applicable rate of assessment and the total gross income earnings of all employees.

**12.** The Workers' Compensation Act be amended in order that the legislation not interfere with negotiated "top-ups" to the level of Workers' Compensation benefits.

**13.** The Workplace Health, Safety and Compensation Commission must medically determine the capabilities of injured worker to earn a full or partial income.

**14.** After medically determining the extent to which an injured worker is capable of earning a full or partial income, every effort shall be provided to accommodate the injured employee into their original place of work. Alternate employment shall only be considered after it is determined that an injured worker cannot be accommodated in his/her pre-injury workplace.

**15.** Legislative requirements shall be introduced to the Workers' Compensation System to ensure that employers are required to make every effort to accommodate the re-integration of an injured worker back into his/her pre-injury workplace.

**16.** The Workers' Compensation System shall provide an injured worker and his/her employer with the financial assistance and resources necessary to make adequate modifications to his/her original place of work in order to re-integrate an injured worker back into the workplace before deeming is considered.

**17.** All employers in the Province shall be required to develop and implement Return-to-Work Programs and Supports for injured employees.

**18.** An injured worker shall be included in all discussions and decisions during the re-integration process and shall have the right to appeal the decision(s) of Workers' Compensation officials during any stage of the process.



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The Newfoundland and Labrador Teachers' Association

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**TABLE A**  
**TEACHER DISTRIBUTION ON CURRENT SALARY SCALE**

November 1, 2000 - June 30, 2001

		1	2	3	4	5	6	7	8	9	10	11	12	
			*1	2	3	4	5	6	7	8	9	10	11	
Certificate Level	<b>I</b>	N/A	19086	19944	20804	21664	22523							
	<b>II</b>	N/A	21766	23044	24324	25603	26881	28159						
	<b>III</b>	N/A	24657	25935	27215	28493	29771	31050	32327					
	<b>IV</b>	N/A	27557	29006	30451	31897	33346	34793	36241	37687				
	<b>V</b>	N/A	31592	33054	34517	35977	37439	38900	40361	41822	43283			
	<b>VI</b>	N/A	36148	37702	39256	40811	42364	43918	45472	47025	48580	50133		
	<b>VII</b>	N/A	41072	42636	44201	45765	47329	48893	50457	52021	53586	55149	56716	
					13	12	22	16	24	32	32	1151		
Number of Teachers Affected - Step VI:									64+81+73+2089				2307	
Number of Teachers Affected - Step VII:									13+12+22+16+24+32+32+1151				1302	
<b>Total Number of Teachers Affected</b>													<b>3609</b>	

**NOTE:**

During the 1999-2000 school year, there were a total of 6,372 full-time teachers employed in the Province. 3,609 teachers earn an annual salary greater than \$45,500. Therefore, fifty-seven percent (57%) of the total teacher population force in the province could be affected by the present Workers' Compensation legislation.

**3,609**

$$6,372 = 0.5663841 \times 100\% = 56.6\%$$

**TABLE B:**  
**TEACHER SALARY VERSUS WAGE-LOSS BENEFIT**  
(Calculations based on 2001 Taxation Tables)

	Teacher Salary	Wage-Loss Benefit
Annual Salary/Wage-Loss Benefit	\$56,716.00	\$45,500.00
Bi-Weekly Income Benefit	\$2,181.38	\$1,750.00

**DEDUCTIONS**

Income Tax	Provincial: \$280.15	Provincial: \$208.90
	Federal: \$394.45	Federal: \$298.55
Canada Pension Plan	\$93.78	\$75.25

Premiums		
Employment Insurance Premiums	\$49.07	\$39.38
Total Federal/Provincial Deductions	\$817.45	\$622.08
Net Income	\$1,363.93	\$1,127.92
Wage-Loss Benefit - 80% of Net Income		\$902.34

### ADDITIONAL DEDUCTIONS

Employment Insurance Premium		\$20.30
Teacher Pension Plan Premiums	\$185.42	\$185.42
NLTA Fees	\$21.81	\$21.81
Group Insurance Premiums (Basic Life, Health, Dental, AD & D, Salary Continuance)	\$70.19	\$70.19
Total Deductions	\$277.42	\$297.72
<b>Teacher's "Take-Home Pay"</b>	<b>\$1,086.51</b>	<b>\$604.62</b>

**NOTE:** A teacher receives 55.65% of regular take-home pay when in receipt of Workers' Compensation wage-loss benefits.

**\$604.62**

**$\$1,086.51 = 0.556479 \times 100\% = 55.65\%$**





# Presentation to the Task Force on the Workers' Compensation System

by  
The Newfoundland and Labrador Teachers' Association

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