

IN THE MATTER OF AN ARBITRATION

BETWEEN

LAMBTON COUNTY ROMAN CATHOLIC SEPARATE SCHOOL BOARD
- the Employer

and

CANADIAN UNION OF PUBLIC EMPLOYEES and its Local 3467
- the Union

AND IN THE MATTER of a policy grievance regarding the position of Communication
Facilitator / Education Interpreter

Arbitrator: Howard Snow

Appearances:

On behalf of the Employer:

Robert G. Murray	- Counsel
Melanie K. Murray	- Student-at-Law
Paul Golian	- Contracts Manager

On behalf of the Union:

Linda Clancy	- National Representative
Mary Stafford	- President, CUPE Local 3467
Suzanne Mills	- Executive, CUPE Local 3467

Hearings held in Sarnia, Ontario on June 12 and June 18, 1996

AWARD

I. INTRODUCTION

During the 1995/96 school year the Employer hired two education interpreters to interpret oral communications for two hearing impaired students in regular classrooms. The interpreters assist in communications in both directions - they interpret the teachers' and other students' words for the hearing impaired students and also interpret the hearing impaired students' communications so that others in the classroom can understand. In this grievance the Union submitted the educational interpreters were covered by the recognition clause of the collective agreement and were members of the Union's bargaining unit.

The Union holds bargaining rights for a unit of "office, clerical and technical" employees. The unit includes education assistants who assist teachers in the classroom. The Union grieved that the education interpreters held the generic position of education assistant and, in the alternative, that the education interpreter position was nevertheless a technical position within the bargaining unit.

The two people employed as education interpreters at the time of the hearing were hired on fixed term contracts which expired at the end of the school year in June 1996. The Union sought no remedy with respect to those persons or their 1995/96 employment and no notice was given to them.

II. THE PROVISIONS OF THE AGREEMENT

The following are the relevant provisions of the collective agreement:

ARTICLE 2 RECOGNITION AND NEGOTIATIONS

2.01 The Employer recognizes the Canadian Union of Public Employees as the bargaining agent of all office, clerical and technical employees of the [Employer] save and except supervisors, persons above the rank of supervisors, administrative assistants, head secretaries of secondary schools, executive secretaries, secretaries to managers, staff development/pay equity officer, transportation officer and persons for whom any trade union held bargaining rights as of March 14, 1990.

The Board hereby consents and agrees to negotiate with the Union, or any authorized committee thereof, in any and all matters affecting the relationship between the parties to this agreement.

2.02 Employees of the Board excluded from this agreement may, from time to time, perform some of the work of the employees covered by this Agreement. Such work shall not result in a reduction of scheduled hours or basic pay of employees under this agreement.

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ARTICLE 22 PAYMENT OF WAGES

...
22.04 Job Classification
The rate of pay for any position not covered by Schedule "A", which may be established during the life of this Agreement, shall be subject to negotiations between the Board and the Union. If the Board and Local 3467 of C.U.P.E., are unable to agree as to the classification and rate of pay for the job in question, such dispute shall be submitted to arbitration. The new rate shall become retroactive to the time the position was first filled by a regular employee.

...

SCHEDULE "A"

...

<u>Classification</u>	<u>Grades</u>
Accounts	C
Catholic Education Centre Secretaries	C
Elementary School Secretaries	C
Library Assistants	B

Mail/Media Clerk	A
Reception/Switchboard	A
Payroll	C
Secondary School Secretaries	C
Education Assistants	B

SCHEDULE "B"

EDUCATION ASSISTANTS GUIDELINES & PHILOSOPHY STATEMENT

SECTION 1.0

. . . Education Assistants have come to play an important role in the education of students in this system. Education Assistants have become an important and necessary asset to the education of the students . . . Education Assistants are expected to support teaching staff ... Their prime function, as a participating partner in a team approach, is to improve the quality of the pupil's education and to help pupils to become aware of their role as integral members of a group.

SECTION 2.0 GENERAL DUTIES

[Twelve general duties are listed indicating that Assistants are part of a team involved in the education process.]

SECTION 3.0 SPECIFIC DUTIES

Preamble

Specific duties should be developed for each school to reflect its unique needs, in consort with the Assistant, the Teachers and the Principal. Some of the parameters that should be considered include the following:

- 3.1 Assisting the Classroom Teacher with the preparation of instructional materials.
- 3.2 Assisting the Classroom Teacher in the supervision of exceptional/regular pupils.
- 3.3 Participating and assisting the Classroom Teacher in specific activities (field trips) and events planned for exceptional/regular students.
- 3.4 Operating specialized equipment required to meet the need of exceptional pupils after proper training has been provided.

- 3.5 Assisting the classroom teacher for the ordered arrangement, appearance and decor of the learning environment.
- 3.6 Assisting with integration of students into regular classroom settings.
- 3.7 Assisting with follow-up physiotherapy activities for fine/gross motor development, physical education and recreation activities, under the direction of qualified personnel after proper training has been provided.
- 3.8 Assisting in hands-on activities.
- 3.9 Assisting with supervision and training of students in community job placements where appropriate.
- 3.10 Assisting in informal testing.
- 3.11 Assisting the Student and Teacher with communication skills (e.g. oral, sign language, Bliss symbols, etc.).
- 3.12 Assisting with the collection and preparation of material for classroom activities.
- 3.13 Assisting with the following duties with developmentally handicapped students:
 - i) grooming/hygiene
 - ii) toileting programs (with proper training being provided)
 - iii) lunch preparation and menu planning
 - iv) lifting of physically disabled students (with proper training being provided)
 - v) developmental motor programs
- 3.14 To assist individual exceptional pupils with class safety, yard supervision and bus monitoring at the discretion of the Principal.
- 3.15 To deal appropriately with student behaviour harmful to self and others with proper training being provided.

SECTION 4.0 EDUCATION ASSISTANT AND PRINCIPAL RELATIONSHIP

. . . the Education Assistant is accountable to the Principal. . . .

SECTION 5.0 EDUCATION ASSISTANT AND CLASSROOM TEACHER RELATIONSHIP

Preamble

The Education Assistant and Classroom Teacher relationship should work as a team towards the benefit of the student. . . .

SECTION 6.0 QUALITIES / QUALIFICATIONS

Preamble

When considering the hiring of an Education Assistant the following qualities/qualifications should be considered.

- 6.1 Successful completion of Early Childhood Education as an Early Childhood Educator or equivalent from a recognized College or University would be considered an asset.
- 6.2 Previous experience with children is an asset.
- 6.3 Must be a sensitive and mature individual who is able to relate well to both children and adults.
- 6.4 Good communication and articulation skills in language and writing.
- 6.5 Ability to interact appropriately with students.
- 6.6 Ability to take direction and act on it independently.
- 6.7 Flexibility; ability to commit to a variety of schedules and job demands.
- 6.8 Good physical health and stamina.
- 6.9 Availability for training as required through the appropriate Board service or outside agency.
- 6.10 Specialization where appropriate.
- 6.11 Ability to maintain professional attitude and confidentiality of position.
- 6.12 The ability to develop a good rapport with the staff and students in a school.

III. THE EVIDENCE

The Employer proceeded first and led evidence to explain the hiring process. There was little disagreement about the facts; there was disagreement over the conclusions which should be drawn from them.

When the Employer began the hiring process the disputed position was called communication facilitator. The title was changed before the hiring was completed and the position renamed education interpreter.

Anna Giuliani, Special Education Consultant with the Employer, and John Barry, Vice Principal at the Robarts School in London, provided evidence on the education of hearing impaired students. A summary of their evidence follows.

Prior to recent changes in the education system in Ontario, students with severe hearing loss (more than 70 decibels) generally attended one of the provincial schools. Students in the Sarnia area often attended the Robarts School. The provincial schools were funded entirely by the province and thus hearing impaired students who attended the Robarts School did not require the expenditure of financial resources by the Employer.

In recent years the Province of Ontario has encouraged greater integration of hearing impaired students into regular classrooms close to the students' homes. As part of the change to greater integration of hearing impaired students, the province agreed to provide additional funding to assist school boards with the education of those students who might otherwise attend a provincial school. The funding is dealt with in Policy/Program Memorandum No. 76(C). Funding depends on the students "qualifying." In 1995/96 the Employer had two students who, in terms of their hearing loss, were qualified to attend the Robarts School.

Their parents, however, chose to have their children educated at their local school. The province thus provided financial assistance under 76(C) when the Employer hired interpreters for the two students. The province funded these interpreter positions in the same proportions as other educational programs operated by the Employer, with the remaining expense covered by local property taxes.

The Employer had little experience with employing interpreters to interpret for hearing impaired students. It sought advice from other school boards which had experience in employing interpreters and also sought assistance from the staff at both the Robarts School and the Ministry of Education. The Employer advertised for a person with knowledge and experience as an oral interpreter and indicated the successful candidate would have certification as Oral Interpreter as recognized by the Ministry of Education. Both positions were advertised and filled on the basis that they were temporary positions for the school year. If the hearing impaired student left, or if the province withdrew its funding, the position would terminate.

The Employer decided that the education interpreter position was not covered by the recognition clause in the collective agreement with the Union. The Employer decided that the position was properly part of the group of professional positions not in any bargaining unit. That group includes speech and language specialists, social workers, chaplains and behaviour facilitators.

The Union first indicated its disagreement with this Employer decision through the Labour/Management Committee. The matter was not resolved and the Union filed the grievance now before me. As the Union submitted the interpreter position was an education assistant position, it is necessary to review both the interpreter and assistant positions in detail.

An interpreter is assigned to work with a particular student. An interpreter takes the words of the teacher or other students and converts those words into a form that the hearing impaired student can understand. The interpreter also takes the communications of the student, perhaps in American Sign Language, and converts them into a form that the teacher and other students can understand. The interpreter communicates for the student; he or she facilitates the exchange of ideas. Under the Code of Ethics of the Association of Visual Language Interpreters of Canada (AVLIC) an interpreter is required to render the message faithfully in intent and spirit, using the preferred language of the consumer and is not to advise, counsel or interject. Both the provincial funding arrangements, and the understanding the Employer had with the persons it hired in 1995, required the interpreters to adhere to the AVLIC code of ethics and to obtain certification from AVLIC within three years.

Interpreters generally have college or university training. St Clair College in Windsor, for example, offers a program to train interpreters. Many interpreters do freelance work. Others are employed by organizations which in turn often contract out the services of the interpreters. The use of interpreters in education is a comparatively new development. In the education setting generally, and with this Employer specifically, interpreters are employed on a salary, as distinct from an hourly basis. Education interpreters thus receive the same income regardless of the time they actually spend on their interpreting duties. Education interpreters are expected to prepare in advance for the day's work. For example, if the teacher planned to have the class watch a movie, the interpreter might preview it the night before so as to more easily interpret it. Finally, education interpreters are expected to consult with the teacher and, when a new topic is to be introduced, review the material for new vocabulary. Interpreters are important participants in the education of hearing impaired students.

The witnesses agreed that most of the qualities of an education assistant listed in Section 6.0 of Schedule "B" of the agreement would also be applicable to an education interpreter, although there was a suggestion that the qualities were of such a general nature as to be applicable to nearly all employees.

The position of education assistant in the bargaining unit is a general position. For example, the collective agreement between the Employer and the association which represents the elementary teachers requires an assistant in each kindergarten class with more than a certain number of students. In addition the Employer has at least one class of disabled students, including students with hearing impairments, who are taught by a specialist teacher. That class has several assistants who provide individual attention to the students.

Sections 2.0, 3.0, and 6.0 of Schedule "B" outline both the duties and the qualities/qualifications of assistants. Two education assistants, Mary Stafford and Lisa Fisher, testified as to their qualifications and their particular duties. Both work in the class with students with disabilities (including one autistic student, one student with Downs' Syndrome, one student who requires a wheelchair and one hearing impaired student).

Ms Fisher had formal training in American Sign Language as part of her program in Developmental Services at St. Clair College in Chatham. Ms Fisher also occasionally uses Exact Sign. She works with the teacher, advising the teacher as to the students' progress, and keeps a written record of the progress of the students. She believed her role and that of the interpreter were comparable as she interprets from the teacher to the student and reverse. If the interpreter position had been posted she would have applied for it as she felt she was qualified for the position.

Ms Stafford works in the same class as Ms Fisher and has a grade twelve education. Ms

Stafford uses sign language and other means to communicate with the students, checks the FM systems and other communication aids, helps modify programs, assists in feeding programs, and assists with toileting. In the afternoon she helps the students who attend a regular class. She also assists with swimming and bowling programs. She prepares work for students for the following day, and provides input to the teacher for the preparation of report cards.

In general terms the number of assistants, like the number of interpreters, is determined by the needs of the students. Assistants work under the direction of the teacher. Assistants are paid by the hour, and are eligible for overtime. If an assistant position is no longer needed the assistant can be laid off, subject to the bumping rights in the collective agreement. The assistants are important participants in the education process.

Both interpreters and assistants work in the classroom and assist, in somewhat differing ways, in the education of the students. The assistants take more direction from the teacher. The interpreter is not subject to similar direction from the teacher. While the interpreter and teacher must work together, the relationship differs from that of the teacher and assistant. The interpreter has a more focused role in interpreting for a particular student.

Employer witnesses explained the Employer's decision to place the interpreters outside the bargaining unit. Paul Golian, whose duties involve the administration of the Employer's various collective agreements, provided the decision makers with his opinion that the interpreter position did not fall within the unit, and specifically that it was not an office, clerical or technical position. He regarded technical as a generic term and gave as an example of a technical employee a person involved with computer technologies. He also testified that the provisions in the agreement regulating hours of work and overtime were not appropriate for the interpreters. He felt the interpreter position was driven by the needs of

the student, whereas the assistant position was driven by the needs of the teacher. As he concluded that the position was not in the unit, Mr. Golian did not consider Article 22.04 regarding the creation of new positions.

Bert VandenHeuval is a Superintendent of Education with the Employer and testified as to the hiring decision. He wanted a non-union position so the position could evolve as the child grew. He wanted a flexible person who could change as the position evolved. He indicated that a typical union position has a job description and the incumbent performs only those specified duties, refusing to do anything not in the job description. The hours of work for a union position are more rigid, with scheduled breaks. Mr. VandenHeuval sought a more flexible work arrangement in which the position could be eliminated if the student left or the provincial funding ceased. He felt the hiring, performance and termination aspects of the employment relationship were all too restricted under a collective agreement. In terms of payment, he wanted the flexibility to be able to require extra work without additional pay. Mr. VandenHeuval made his decision without specific consideration of the provisions in the collective agreement. He did not look at the agreement or speak to the Union.

IV. SUBMISSIONS OF THE EMPLOYER

The Employer submitted that the education interpreter position was a new position and that the onus was thus on the Union to demonstrate that this new position was included in the bargaining unit. This was not a technical position. While there may be some overlap in duties with assistants, Article 2.02 makes it clear that a person outside the unit can do bargaining unit work. The interpreter position does not fall under any exception in Article 2.01- the position is simply not an office, clerical or technical position.

The interpreters share a community of interest with the professional services group. They

all share similar educational backgrounds and skills. The nature of the work and remuneration are similar. Interpreters belong in the group of other professionals with similar training, none of whom are in the unit.

The interpreters and assistants differ in terms of job security, overtime obligations, and skill levels. It would be a burden for the Employer to have to keep interpreters if the funding ceased.

The Employer relied on the following authorities: *Re Horton CBI, Ltd. and United Steelworkers, Local 8473* (1982), 4 L.A.C. (3d) 97 (Adell); *Re Perley Hospital and Canadian Union of Public Employees, Local 780* (1984), 16 L.A.C. (3d) 413 (Roach); and *Re Lantic Sugar Ltd. and Teamsters Union, Local 419* (1994), 40 L.A.C. (4th) 285 (M. G. Picher).

V. SUBMISSIONS OF THE UNION

The Union submitted that:

1. The interpreter job fits the essential duties of an assistant; and
2. In the alternative, it is a new classification under the agreement and covered by Article 22.04.

The duties in Section 3.0 of Schedule "B" are largely applicable to interpreters. Employer witnesses agreed that much of Section 6.0 of Schedule "B" applied to interpreters.

The Union emphasised the explanation given for the exclusion of the interpreters. The Employer believed the collective agreement was too restrictive in providing for normal hours, normal days, overtime, seniority rights, job security and bumping. The Union

disputed this and submitted that this reason clearly undermined the bargaining unit.

The Union relied on the following authority: *Re Corp. of Borough of Scarborough and Canadian Union of Public Employees, Local 368* (1975), 10 L. A. C. (2d) 188 (Adams).

VI. CONCLUSIONS

There are two issues before me. They are:

1. Is the education interpreter position in the bargaining unit?
2. If the interpreter position is in the unit, is it an education assistant position or a new position?

1. The first question involves an interpretation of Article 2.01 of the parties' agreement. The bargaining unit consists of "all office, clerical, and technical employees," with several exceptions. The Union argued the interpreters are technical employees. The Employer disagreed but acknowledged that none of the exceptions apply.

Technical is not defined in this agreement. Mr. Golian gave an example of a technical employee as someone who was involved with computer technology. However, there was no evidence that there were any persons with such duties in the unit.

The Union submitted that technical employees included education assistants. There was no suggestion that education assistants were either "office" or "clerical" employees. The evidence instead leads me to the view that "technical" in the recognition clause is intended to describe the education assistant positions and other positions like the position of education assistant. In other words, I conclude that education assistants are "technical" employees as that term is used in the agreement.

The agreement contemplates that the Employer may create positions which have not previously existed and that those new positions may be covered by the recognition clause. Thus the Employer can create new technical positions which are covered by the recognition clause and in the bargaining unit. Article 22.04 provides a mechanism for establishing the pay rate for these new positions.

On the other hand, it is also clear that there are positions which the parties accept are not in the unit. The positions in the professional group are not in the unit. These professional employees are not viewed by the parties as being "technical" employees.

Employer witnesses expressed the view that the interpreter positions were more similar to the professional positions. One of the reasons for that view involved the interpreters' terms and conditions of employment - that the interpreters and the professionals are employed by the Employer under similar arrangements as to salary, etc. I do not feel I can place any weight on that similarity. The similarity in the terms and conditions of employment flows from the disputed Employer decision that the interpreter positions are outside the unit. If the interpreters were in the unit their terms and conditions of employment would be similar to the education assistants as they would both be governed by the same collective agreement. Thus the fact that the Employer has provided employment terms similar to those provided to employees in the professional group does not help me in a determination as to whether the interpreters are technical employees who should have been placed in the unit.

Employer witnesses and the Employer's submissions also emphasised the difficulty that would flow from applying the terms of the collective agreement to the interpreters. The terms of the collective agreement were more onerous than the employment terms the Employer wished to have for interpreters. I do not accept that difficulty as a basis for making a decision as to whether the interpreters are or should be in the bargaining unit. If

the interpreters are in the unit and the provisions of the agreement are more onerous than the Employer wishes, then the Employer can raise its concerns with the Union. However, having agreed on the terms for employing all its "technical" employees, the Employer can not rely on its dislike of those same terms as a basis for classifying a technical employee as something other than a technical employee.

In its submissions the Employer also relied on Article 2.02 which permits excluded persons to do some of the work of employees in the unit. I accept that if the interpreters are excluded from the unit they can do some bargaining unit work, as they clearly can if they are in the unit. I do not find this submission to be of help in deciding whether the interpreters are in the unit or excluded.

The parties have given meaning to "technical" employee by the inclusion of education assistants and the exclusion of the positions of social worker, chaplain, etc. In resolving the issue of whether the interpreters are technical employees in the unit, I am of the view that a two part process is appropriate:

- A. The first part involves an examination of the work done by the interpreters. If that work is sufficiently similar to the work of the education assistants, as compared to the work done by the persons in the professional group, that similarity would suggest the interpreters should be regarded as "technical" employees in the unit. If the work is more similar to that of the professionals whom the parties have viewed as being outside the unit then it would suggest that the interpreters should not be regarded as "technical" employees, but instead should be outside the unit.
- B. If the interpreters' work is similar to that of the technical employees, the second part involves a consideration of the question "Can the interpreters' work reasonably be described as technical work?"

I reviewed in detail the evidence on the interpreter and assistant positions above. I heard very little evidence on the role of the chaplain, social workers, psychologists, behaviour facilitators, etc. From that evidence, however, I conclude that these excluded employees work in a different manner. The nature of their work can be compared to the work of a consultant. In other words they are not assigned to work full time with one student or even to work in one classroom. Instead they work with a variety of students throughout the school board who can benefit from their expertise and assistance. They have a wide variety of "clients" and the nature of their work is more like the work of doctors, lawyers and engineers in private practice.

The interpreters and assistants on the other hand both work in a classroom, generally the same classroom, for an extended period. Employer witnesses stressed that the assistant's role is to assist the teacher, whereas the role of the interpreter is to assist the student. I do not find this distinction to be of much assistance. Ultimately it is clear that the teachers, the assistants, and the interpreters are all employed to assist the students. The interpreters and assistants both help in the classroom with the education process. I find that the work of the education interpreter is more like the work of the education assistants than it is the social workers, psychologists, etc. who are not in the unit.

The conclusion that the work of the interpreters is more like the work of the education assistants does not in itself mean that the interpreters are technical employees. It is also necessary to consider the second part: Can the interpreters' work reasonably be described as technical work? If the interpreters' work cannot be described as technical, it would suggest that the work of the education assistants is at the edge of what might reasonably be described as technical work and that anyone whose work is less technical, or more professional, than the assistants' work should be regarded as being outside the bargaining unit.

While technical work often means work in which an employee deals with something mechanical or, as Mr. Golian suggested, deals with something technological such as computer technology, "technical" is also commonly used to describe the work of employees who perform a craft or use another highly developed skill, unrelated to technological or mechanical devices. Interpreters are specifically trained for their work and have highly developed skills in the area of interpreting. I conclude that the work of an education interpreter falls within the common use of "technical" work.

I note that many of the assistants are also specifically trained for their work and are also very skilled in what they do. In view of my conclusions that the interpreters' work is more similar to the assistants' work than the professionals' work, and that the interpreters' work falls within the common understanding of technical work, I conclude that the education interpreters are technical employees as that term is used in the recognition clause. The education interpreters are thus in the Union's bargaining unit.

2. Having determined that the interpreter position is in the unit, the second issue before me is as follows: Is the interpreter position an education assistant position or a new position? In the paragraphs which follow I use the word "job" to describe what an employee does, and the word "position" to describe a group of employees who do similar work and have the same title (e.g. education assistant).

An employee's job consists of a bundle of duties performed by that employee. Not every employee in a particular position does exactly the same thing. If it were necessary for all persons in each position to do exactly the same thing, then in many workplaces there would be nearly as many positions as there are employees. For example, Ms Stafford and Ms Fisher, while both in education assistant positions, do quite different jobs. This is not surprising as Section 3.0 of Schedule "B" specifically contemplates that the education

assistants will have differing duties. Thus a position involves a general grouping of tasks, and it is expected that employees in a position will do those tasks in different proportions. The work of two employees may differ considerably and yet the two still hold the same position.

The issue is whether the bundle of tasks of the education interpreter and the bundle of tasks of the education assistant are sufficiently similar that the same position should apply. I have already concluded that there is a similarity between the two jobs and that the employees doing the two jobs are technical employees under the agreement. There is a difference however between concluding that the two are technical positions and concluding that the two are the same technical position. The jobs differ considerably. The interpreter role is much more focused. It is narrower and more restrictive. The interpreter role is a more specialised role.

While I accept that the qualities in Section 6.0 of Schedule "B" also apply generally to interpreters, those qualities would apply to all, or nearly all, the employees of the Employer. As a result, Section 6.0 is of little assistance in resolving this issue.

Many of the specific duties in Section 3.0 of Schedule "B" do not apply to the interpreters. Even when the duty may be applicable to the interpreters as well, the persons in the two jobs would fulfil the duty in a different way. For example both help in the integration of students (3.6), but they do so in differing ways. Some duties do not apply to interpreters. For example, interpreters do not help in preparing instructional materials (3.1), or the supervision of pupils (3.2). Similarly interpreters would not be involved in providing physiotherapy activities (3.7), supervising students in job placements (3.9), testing (3.10) dealing with safety (3.15) or helping with the developmentally handicapped (3.13).

Employees who are in the same position are generally expected to be interchangeable, or to be able to do each other's job. In this agreement when a reduction in the number of employees is to be made it is done on the basis of seniority, subject to the ability to perform the work. I do not think the interpreters and assistants would be easily able to perform the other job.

Based on the review of the duties, I have concluded that the work of the education interpreters and the education assistants are sufficiently different that the work of the interpreters is not a further example of the education assistant position. Instead I conclude that the interpreter job is sufficiently different from the assistant job that the education interpreter is a new position which has been established by the Employer, a position to which Article 22.04 is applicable.

By way of remedy the Union sought a declaration that the position of education interpreter was in the unit. I declare that the education interpreter is a new position in the bargaining unit, a new position to which Article 22.04 is applicable. In addition, the Union sought an order that the education interpreter positions be posted. The posting requirements were not specifically addressed in argument and I think it preferable to limit the remedy to my declaration that the positions are in the unit. If the Employer decides to employ interpreters again in the future, I am confident that the Employer will apply the appropriate provisions of the agreement, and it is not necessary for me to order the Employer to abide by specific provisions in the agreement.

At the request of the Union, I remain seised to deal with any matter that may arise in the implementation of this award.

In summary I conclude that:

1. The education interpreters are technical employees covered by the collective agreement; and,
2. The education interpreters are not education assistants but instead they hold a new position under the agreement.

Dated in London, Ontario, this _____ day of July, 1996.

Howard Snow, Arbitrator