

ARTICLE 15 TRANSFER, REASSIGNMENT, AND RECALL

15.2.5 Excessed Teachers:

a. Definition: Excessed status exists when there is a reduction in staffing at a school or site or when a teacher returns from a leave of absence of one (1) year or more; or when a teacher waives their right to return to a site prior to going on a leave of one (1) year. Because school programs are unique, it is important that teachers make informed decisions regarding their teaching assignments. To assure that excessed teachers apply for positions that fit their interests, experience, training, and skills, they shall participate in the interview process.

b. Staff Reductions: When staff reductions occur at the site/building, all teachers shall first be canvassed in seniority order within their specific licensure area/department to determine which teachers shall be excessed. The least senior teacher in the specific licensure areas/departments shall be excessed from the site/building if more senior teacher(s) decline the option of volunteering to be excessed. *If a more senior tenured teacher would otherwise experience a reduction in FTE at the site, that teacher shall be permitted to bump into positions and/or duty hours of licensed work held by less senior teachers at the same site if no specific license is required (e.g., AVID, advisory, study hall, coordinators).*

c. Participation in Transfer Process Requirement: All excessed teachers shall participate in the transfer process if there are positions posted for which they are appropriately licensed and qualified.

d. Interview Requirement: Excessed teachers who are in the top four (4) senior applicants or who are selected for an interview must participate in the interview process.

e. Unable to Secure a Position: Excessed teachers who are unable to secure a position through the transfer process or who did not participate in the transfer process must participate in a matching session which includes an interview.

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15.5 Placement Rules for Excessed Teachers

15.5.1 Participation in Transfer Process: Teachers excessed or returning from leaves of absence of one (1) year or more shall participate in the transfer process if there are positions posted for which they are appropriately licensed and qualified.

15.5.2 Matching Session: Excessed teachers who are unable to secure a position through the transfer process or did not participate in the transfer process must participate in a matching session. Teachers will only be able to interview for positions in the specific licensure area/department in which they taught the previous year at the matching session.

15.5.3 Placement of Unplaced Teachers: Teachers unable to secure a position during matching session(s) will be placed in a position at the discretion of the Labor/Management Placement Committee.

15.5.4 Other Placement Options: In lieu of being placed in a position the teacher does not want, an excessed teacher may request one of the following options if available:

a. Reserve Teacher: be placed as a reserve teacher subject to assignment by the district, with regular pay and benefits appropriate to the teacher's FTE.

Teachers working as reserve teachers shall continue over the summer and during the school year to participate in the interview process until they secure a position.

b. Mobility Leave: if eligible, apply for a three to five year mobility leave during which the district will pay for the employer and employee TRA contribution. Teachers who elect to return from the leave must repay the District's TRA contribution made on their behalf in full for the term of the mobility leave. This provision is at the district's discretion and subject to a district determined dollar cap.

c. One-Time Payment for Separation: receive a one-time payment in return for submitting a non-rescindable retirement or resignation. The payment shall be deposited into a health care savings plan account (This is subject to approval from MSRS). This provision is at the district's discretion and subject to a district determined dollar cap.

i. Exception to Payment to MSRS Health Care Savings Plan Account: If an employee qualifies for an exception under the Minnesota State Retirement System's Post Retirement Health Care Savings Plan document, they shall receive a District contribution to a 403(b) and/or 457 deferred compensation account.

These options **Options (a) (b) and (c) above** are available at the district's discretion.

~~**15.5.5 Unplaced Teachers:** Teachers who are unable to secure a position will be considered excessed during the next staffing cycle and shall participate in the transfer process.]~~

15.10 Layoff:

15.10.1 Layoff, Timing: The board may lay off, without pay or fringe benefits, as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. The layoff is effective at the close of the school year.

15.10.2 Teachers with Achievement of Tenure Status, Requirements: A teacher who has successfully completed the contractual Achievement of Tenure process will be considered "tenured" for the purposes of this language. In the event a teacher has worked for MPS for more than three years, but did not receive support to complete the Achievement of Tenure process, the teacher shall be deemed to have completed it for purposes of being considered tenured.

15.10.3 Bumping Rights, Timing: If after Interview and Select, Matching, and Placement Committee and not securing a position for the full FTE entitlement, a more senior teacher must be permitted to bump the least senior teacher in the specific licensure area/department in which the teacher was last assigned.

The teacher may only bump a teacher in another license area/department in which the unassigned teacher holds a license, if there is a teacher in that license area/department who is even less senior than the least senior teacher in the last assigned area.

15.10.4 In placing teachers on layoff, the school board is governed by the following provisions:

a. Tier 1 teachers must be discontinued in any department before any Tier 2, 3, or 4 teachers.

b. All teachers teaching under an Out of Field Permission will be discontinued from that position prior to any Tier 2, 3, or 4 licensed teachers. These teachers, however, will have rights to continue employment pursuant to this Article and be permitted to use any other license(s) they hold.

c. A tenured teacher must not be laid off while Tier 1 or Tier 2 licensed or non-tenured licensed teachers are retained in positions for which the teacher who has earned greater seniority is licensed. Teachers shall be placed on layoff in inverse order of seniority, as defined in **Article 17 Seniority**.

15.10.5 Notice to teachers. Following school board action proposing placement of teachers on layoff, each individual teacher proposed for placement on layoff shall receive notice of the proposed placement **no later than May 31st** that:

- a. states the applicable grounds for the proposed placement; and
- b. provides notice to the teacher of their right to request a hearing on the proposed placement within 14 calendar days from the receipt of the notice; and
- c. provides notice to the teacher that failure to request a hearing will be deemed acquiescence to the school board's proposed placement action.

15.10.6 Right to a hearing and decision: If the teacher requests a hearing, the teachers proposed for placement on layoff pursuant to school board action shall be entitled to a hearing to challenge the proposed placement pursuant to the grievance procedure as provided in this Agreement, commencing at the arbitration step. Only arbitrators who will make a decision in time for the School Board to act by the deadline will be selected.

15.10.7 Final board action. Final school board action to place a teacher on layoff must take place prior to July 1. Final school board action must not occur before:

- a. notice and acquiescence, or
- b. notice with the arbitrator's decision sustaining a layoff (decision must be rendered prior to July 1).

15.10.8 Reinstatement: A teacher placed on layoff shall have rights to reinstatement for a period of five (5) years per the Recall Procedure in this Article or until the teacher is fully reinstated, after which the right to reinstatement shall terminate. Teachers placed on layoff must be reinstated to the positions from which they have been laid off or, if not available, to other available positions in the school district in fields in which they are licensed.

Reinstatement must be in the inverse order of placement on lay off. A teacher on layoff does not forfeit the right to reinstatement when accepting or declining a position for less than the full FTE from which they were placed on leave.

A teacher must not be employed in a position in a license area/department in which the teacher holds a Tier 1, or Tier 2 license as defined by the Teacher Licensing Board while another teacher who holds a Tier 3 or Tier 4 license in the same license area/department is available for reinstatement.

15.10.9 Vacancies and Notification: No teacher shall be hired, nor will a Tier 1 or Tier 2 license be sought for any individual, by the School District while any qualified teacher is on layoff in that field of licensure unless the teacher declines or fails to advise the school board

of their desire to accept the position pursuant to the recall procedure in this Article (see below).

15.10.10 Seniority: Seniority is defined under **Article 17: Seniority.**

15.10.11 Benefits while on leave. Teachers placed on layoff shall remain eligible for participation in the school district's group insurance programs at their own expense for the duration of their reinstatement period.

15.10.12 Rights during Layoff: Any teacher placed on layoff may engage in teaching or any other occupation during the layoff; may be eligible for unemployment compensation if otherwise eligible under that law for such compensation; and being on layoff will not impair the tenure rights of the teacher nor result in a loss of credit for years of service in the district earned prior to the commencement of such layoff.

15.10.13 Filing Licenses and Preparation of Seniority Lists:

a. Filing of licenses: In any year in which the School District is placing teachers on layoff, only those teaching licenses that are filed and/or posted on the Teacher Licensing Board website by March 1 of that year will be considered for purposes of determining layoffs within areas of licensure. A license filed after March 1 will be considered for purposes of recall, but not for layoff.

b. Preparation and posting of seniority and licensure lists: By the last day of the first, second, and third quarter of each school year, the School District shall create and post a seniority and licensure list. The list will include the name of every teacher, seniority number, seniority date, Achievement of Tenure status, and licensure area and tier. The list will be posted on the District's intranet and made available for download. The list will include all teachers and all of their licenses regardless of which license(s) to which they are assigned.

15.10.14 Vacancies and posting process: Whenever a teaching or extra-curricular position becomes available for assignment, the District shall post it on the District's website and send it via e-mail to MFT and any teachers on layoff.

15.15 ~~15.10.1~~ Exemption from Layoff: Exemption from layoff for designated programs: Teachers working in the following programs may be exempted from district-wide layoff outside of seniority order to ensure continuity of instruction to students at these sites based on the difficulty in filling vacancies at these sites with staff who are appropriately licensed, certified and bi-literate in the appropriate language:

- a. Autism**
- b. Montessori**
- c. Immersion**
- d. Native and Heritage language literacy programs as identified annually at contract administration**
- e. Grow your Own Program:** Teachers who are graduates from the District's Grow Your Own programs may be exempted from District-wide seniority based layoff to support the District and the Union's commitment to grow our own staff.

~~**15.10.2 Recall Procedure**~~ ~~**15.10.3 Excessed:**~~

15.16 Recall Procedure for Staff Excessed at Budget Tie-Out: Teachers on a continuing contract who are excessed at budget tie-out have the right to return of recall to a

position at their site in the area in which they were excessed if a position reopens after the budget tie-out process.

a. Licensure: Teachers must have the required license for the position that reopens.

b. Time Limit: This right of recall shall extend through the end of July following the most recent school year. This does not prohibit/limit teachers who are exercising bumping or post-layoff recall rights from having access to a position that reopens at any time.

15.17 15.10. Recall Procedure after Layoff:

~~15.10.4~~ **15.17.1 Separation Consideration for Other Positions:** Teachers who have been ~~discharged~~ laid off because of lack of pupils and discontinuance of position and who retain rights to be recalled according to the Teacher Tenure Act MN Statute §122A.41 or the provisions contained in this Agreement shall receive first consideration for other positions in the District for which they are qualified.

~~15.17.2 15.10.5~~ **Notification of Opening:** The Board of Education shall notify such teachers of the availability of a position by first calling the teacher who will have until the end of the seventh (7th) next business day to accept or decline the recall. If the teacher is not reached by phone, a certified letter addressed to the teacher's last known address will be sent offering the recall. Such notifications shall be sent to teachers in order of their seniority in the ~~department from which they were discharged.~~

~~15.17.3 15.10.6~~ **Acceptance of Position:** Within **seven (7) days** of the date of postmark of such notice, the teacher shall notify the Division of Human Resources of their intent to accept the offered position. ~~No~~ Extension of time for recall made by the teacher shall be granted will be granted at the discretion of the district.

~~15.17.4 15.10.7~~ **Termination of Recall Right:** All rights of recall shall terminate upon the earlier of:

- a. a refusal to accept an offer of a position equivalent in FTE to that held at the time of layoff;
- b. failure to respond within **seven (7) days** of postmark of a notice of recall or ~~within 24 hours~~ after being reached by phone;
- c. ~~twenty-four (24)~~ **sixty (60) calendar months** following the first duty day of the school year following the date of discharge.

Notwithstanding the above grounds for termination of recall rights, a teacher holding multiple areas of licensure shall have the right to decline an equivalent FTE offered position in one area of licensure while retaining rights to recall in other areas of licensure.

~~15.17.5 15.10.8~~ **Retention of Seniority and Other Rights:** Teachers recalled to duty shall retain their seniority numbers, accumulated sick leave, salary schedule placement rights, and all other rights covered by this Agreement.

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Article 17 Seniority

17.1 Definitions:

17.1.1 ~~The seniority list will be updated, posted online and email notification will be provided to teachers and MFT by the last day of the first, second, and third quarter of each school year. **Year of Employment:** For purposes of establishing seniority, a year of employment shall mean a school year of at least nine (9) months in which the teacher is employed by the Board of Education at least 75 percent of the time.~~

17.1.2 Seniority: Seniority means the greater number of years of consecutive employment as a ~~probationary and tenured~~ teacher in the Minneapolis Public Schools unless herein otherwise specified.

17.2 Seniority Rights:

17.2.1 Basis for Determination of Seniority: The information in the files of the Division of Human Resources of the administrative offices shall be the basis for determining seniority, and the Division of Human Resources shall be responsible for computing such seniority, which shall report upon request to a principal needing such information to decide upon a possible transfer, or to a teacher involved in such a decision, or to any other duly authorized person or group.

17.2.2 Establishment of Seniority Numbers:

a. Prior to August 29, 1973: All seniority numbers given to contract teachers prior to August 29, 1973 will stay the same.

b. After August 29, 1973: All those whose effective dates of employment are subsequent to August 28, 1973, including those with prior long-call reserve teacher experience*, will be assigned seniority numbers using the following priorities in the order in which they are listed:

1. Effective date of employment;
2. Date the contract, signed by the teacher, was received in the Division of Human Resources.
3. Time (hour and minute) the contract, signed by the teacher, was received in the Division of Human Resources.

(*At least twenty (20) consecutive days in the same assignment and without a 60 day break in employment.) ***[Was formerly a footnote in our CBA]***

17.2.3 Leave of Absence:

a. Special Considerations: Sabbatical leave, military service in time of national emergency, or a call to active duty in the military forces shall count as full time in determining seniority.

b. Retention of Seniority: In all other cases of leaves of absence, teachers shall retain the seniority acquired at the time of taking leave, and a leave of absence shall not constitute a break in consecutive employment; but teachers who resign their positions and are later reemployed shall lose that seniority acquired before resignation.

c. Leaves of Absence Less than One (1) Year: In case of a leave of absence of less than one (1) year, or for a leave of absence of one year where the site held the

position for that teacher to return, teachers shall also retain their seniority status in the building in which they were teaching at the time they went on leave.

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APPENDIX 1: 2017 change to 122A.41 related to LIFO:

Subd. 14. Services terminated by discontinuance or lack of pupils; preference given.

~~(a) A teacher whose services are terminated on account of discontinuance of position or lack of pupils must receive first consideration for other positions in the district for which that teacher is qualified. In the event it becomes necessary to discontinue one or more positions, in making such discontinuance, teachers must be discontinued in any department in the inverse order in which they were employed, unless a board and the exclusive representative of teachers in the district negotiate a plan providing otherwise.~~

~~(b) Notwithstanding the provisions of clause (a), a teacher is not entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the Board of Teaching, unless that exercise of seniority results in the termination of services, on account of discontinuance of position or lack of pupils, of another teacher who also holds a provisional license in the same field. The provisions of this clause do not apply to vocational education licenses.~~

~~(c) Notwithstanding the provisions of clause (a), a teacher must not be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field is available for reinstatement.~~

MS 2018 [Repealed, 1Sp2017 c 5 art 2 s 58]

Subd. 14a. Negotiated unrequested leave of absence.

The school board and the exclusive bargaining representative of the teachers must negotiate a plan providing for unrequested leave of absence without pay or fringe benefits for as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts.

[See Note.]

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[Note at end of statute]

NOTE: Subdivision 14a, as added by Laws 2017, First Special Session chapter 5, article 2, section 22, is effective for collective bargaining agreements effective July 1, 2019, and thereafter. Laws 2017, First Special Session chapter 5, article 2, section 22, the effective date.