



June 1, 2009

Know Your Contract

Article IX, Section D: Surplus and Unrequested or Involuntary Transfer

The involuntary transfer process is invoked when lay-off occurs due to reduction of staff to ensure that the most senior bargaining unit members are retained. The process can also occur when there is a reduction of staff in a building(s) but not necessarily a district-wide layoff. The involuntary transfer process begins prior to the end of the school year with the least senior teachers being surplus from buildings that must reduce staff for the following year.

The first paragraph of this contract section states:

"It is recognized that it may become necessary for teachers to be transferred in the best interest of the District, including, but not limited to, changes in enrollment, etc. However, when such involuntary transfers take place, the teacher who must be transferred will be the teacher with the least seniority. When assignments in a building are being made, the teachers with the least seniority not certified or meeting the North Central standards for an assignment in the building, will be transferred and/or declared surplus."

(After June 30, 2006 a teacher teaching in any of the core academic subjects also must be Highly Qualified as defined by No Child Left Behind.)

Surplus

In the elementary buildings it is very easy to determine who the least senior regular education teachers are to be surplus because everyone can teach all grade assignments in the building. In the secondary it is much more complicated to determine surplus teachers because of certification, North Central requirements, and Highly Qualified requirements. The least senior teacher may not be surplus because he/she is the only person certified for the assignment, and the more senior teacher who is surplus is not certified for the assignment held by the least senior. The second paragraph of the section states: *"Secondary principals, in the development of teacher schedules, will strive to retain the most senior current staff."*

At a teacher's request the WEA checks the secondary schedules and surplus to see if some minor adjustments can be made to retain the most senior. If you have questions about your surplus or the secondary

schedule, please call Bob Naski or Jon Fielbrandt at the WEA office.

Tenure teachers who are surplus from a building are invited to attend the bid session (this year being held on June 8). Their names are placed on the bid session list. Non-tenure and laid-off teachers are not eligible to attend the bid session. A teacher is considered surplus from a building until the opening day of the next school year even if he/she bids on an assignment at the bid session.

Involuntary Transfer

At the end of the bid session, there may be surplus tenure teachers who were unable to bid an assignment and surplus non-tenure teachers with enough seniority to hold a job in the district. Before the opening of the school year, they must be placed in an assignment at the discretion of the administration. The third paragraph of the contract reads:

"Also, when transfer procedures under Section C above have been exhausted and layoff is imminent, in order to insure that the most senior teachers in the District are retained, the Board shall have the discretion to implement unrequested transfers without regard to seniority. It is the intention of the Board to make every effort to exercise its discretion herein to retain current staff. Current staff means all staff employed as of the last day of school and staff on the layoff list. When the Human Resources Department notifies the WEA that the faculty for the year is established, there shall be a ten (10) work-day period for review of the placements. In the event that it can be shown that a more senior teacher should be assigned, such assignment shall be made with retroactive pay to the beginning of the year. No review requests will be accepted after the completion of the ten (10) day review period."

The necessity to place a surplus teacher and determine who will be laid-off causes the involuntary transfer of other teachers in the district. Typically what occurs is that the unfilled vacancies at the end of the bid session cannot be filled by the surplus teachers because they are not certified for the vacancies. The administration, in order to place these surplus teachers, must involuntarily transfer teachers who are both certified to fill the vacancies and hold positions that the surplus teachers are certified to fill. For example, the vacancy remaining at the end of the bid session may be an elementary position. A surplus teacher

who needs to be placed can only teach 6-12. Therefore a K-8 certified teacher holding a position that the surplus teacher can teach in 6-12 will be involuntarily transferred to the K-8 position to create a placement for the 6-12 teacher.

It is important to note here that administration may involuntarily transfer “without regard to seniority.” In other words, using the above example, if two K-8 certified teachers both hold secondary assignments that the surplus teacher can teach, the administration is not contractually obligated to transfer the least senior of the two K-8 certified persons. However, throughout the last 35 years, the WEA has urged the Human Resources Department to transfer the least senior because this is fairer. In every case they have done this.

Article XXI: Layoff and Recall Procedures

Layoff means removal from the payroll with no employment rights other than retention of seniority status, accumulated personal leave days, and recall rights.

After the involuntary transfer, those to be laid-off are identified in seniority order beginning with the least senior. However someone with more seniority may be laid-off over someone with less seniority because the less senior person holds a position that no one with more seniority is certified to teach, such as vocational or special education. There is no deadline date in the contract when the district must notify those who will be laid-off. It could occur late in the summer or even after the school year begins. The WEA will be urging the Administration to begin the involuntary transfer process after the bid session so that people can be notified of lay-off as soon as possible. When the district notifies the WEA of those laid-off, we will send each a packet of information that explains recall rights and how to apply for unemployment compensation.

Once transfers and layoffs are completed for the opening school year, the administration notifies the WEA that the process is completed and that all staff have been assigned. The WEA then has a ten (10) work-day period to review the placements. If we raise no objections in that period, we are then contractually barred from filing a grievance at a later date. Therefore, it is important that if a WEA member has a question about his/her layoff, surplus, or involuntary transfer, he/she should call Bob Naski or Jon Fielbrandt. It is very important that we have all available information when we do the final review.

Recall

Teachers shall be recalled to positions consistent with their certification and qualification, and, in the case of high schools and/or middle schools, with North Central Accreditation standards beginning with the most senior teacher. Tenure teachers and non-probationary bargaining unit members shall have recall rights for 3 years. Laid-off probationary bargaining unit members will remain on a

recall list for the length of their seniority to a maximum of 3 years. For example, if someone has 1 year seniority, he/she will remain on the recall list for 1 year from the time of lay-off. It should also be noted that if a position becomes vacant during the school year, the district does not have to invoke involuntary transfer to recall the most senior.

Article IX, Section F: Seniority

Seniority is defined in the contract as “*an employee’s total length of service as an employee of the District in contractual position.*” The WEA seniority list is a district-wide list. Only current WEA members are on the list with their district seniority date in ranking order from the highest senior member at the top of the list and the lowest senior member at the bottom of the list. Teachers currently on leave do not appear on the seniority list. Once a teacher on leave informs the administration that they intend to end the leave and return to work, will an adjusted seniority date be calculated and the teacher placed back on the seniority list.

Every member holds only one seniority date and rank and that is their district-wide seniority. In other words, no one has separate and different seniority dates for length of service in a building and/or length of service in a particular position. Although there is one district-wide seniority list, each building has a seniority list of just the members in that building. However, their seniority dates and ranking order are the same as on the district-wide seniority list. The building list may change from year to year because someone leaves the building or enters the building in a subsequent year.

A member’s seniority date and rank are established on the first day he/she works in the district **using the facts on that day**. No two members can hold the same slot on the list. Thus, the following tie-breakers are used to separate everyone with the same date of the first day worked in the district:

1. *First day worked in the most recent period of employment.*
2. *Date the most recent individual contract was signed.*
3. *Total index points at time the tie must be broken.*
4. *Undergraduate grade point average carried to two decimal places.*
5. *Undergraduate grade point average carried to as many decimal places as necessary to break the tie.*

Example:

Fifteen teachers all have the same date of their first day worked. Therefore they must be tie broken apart. One signed a contract on June 1, one on June 2, one on June 3, one on June 4 and one on June 5. They are tie broken and placed on the list in order of their signing dates in descending order from the earliest date to the most recent date. The next tie breaker does not get applied to them. The

remaining ten signed their contracts on June 10. The next tie breaker must be applied to them which is their total index points as of their first day worked. One has a MA+15 on Step 2, one a MA on Step 1, one a BA+20 on Step 1, and one a BA on Step 1. They are tie broken and placed on the seniority list in descending order of their index points from the most to the least. Index points can be found on page 54 of the current contract. The next tie breaker does not get applied to them. The remaining five have BA, Step 0. The next tie breaker must be applied to them which is undergraduate grade point average carried to two decimal places. One has a 3.85, one has a 3.75, and one has a 3.55. They are tie broken and placed on the list in order of their grade point average in descending order from the highest to the lowest. The last tie breaker does not get applied to them. The remaining two have a grade point average of 3.22. The next tie breaker of additional decimal places is applied to them. They both have a 3.235. So the next decimal place is applied. One has a 3.2357 and one has a 3.2355. The tie is broken, and they are placed on the list in the order of their grade point average carried to four decimal places from the highest to the lowest.

Once the member's seniority and rank are established based on the facts at the time of the first day worked, it is "written in stone." It will not change except for the following reasons:

1. If a person resigns and subsequently returns to the district, the time not employed shall be subtracted from the length of service.
2. If a person goes on a non-compensable leave of absence, other than up to 12 weeks of FMLA, the time on leave will be subtracted from the length of service.
3. If a person is laid-off, the time on lay-off will be subtracted from the length of service.

It should be noted that if a person gets a higher degree such as an MA and changes lanes after his/her seniority is established, it will not change his/her seniority or ranking.

Time on leave from the bargaining unit will ***not*** be counted toward seniority service for the following exceptions:

1. Time on military leave.
2. Time on non-compensable FMLA leave up to 12 weeks.
3. Time on sick leave and the first 120 work days under Long Term Disability (LTD) coverage. Thereafter, while on LTD, the teacher's seniority accumulation will be frozen.
4. Administrators who were former WEA bargaining unit members and those newly hired administrators prior to August 1, 1986 who were not former WEA members will accrue seniority in the bargaining unit while an administrator. Newly hired administrators in the District as of August 1, 1986 who are not former

bargaining unit members will not accrue seniority in the bargaining unit.

Seniority will be prorated for part-time teachers for the extent of their work schedule. Teachers will not accrue seniority for substitute work even if they were a former bargaining unit member and substitute while on lay-off.

As updated copies of the seniority list are provided to the WEA by the district, a copy will be placed in the secure area of our website at www.WarrenEA.org.