

ARTICLE TWELVE

INVOLUNTARY ADJUSTMENT OF WORK

12-1 If the economic or efficient operation of the District makes it necessary to reduce the work force in any classification, attrition will be utilized as the first means of reducing the staff. If additional reduction is necessary, initial probationary, temporary and substitute ESPs in the affected classification at the site shall be laid off. If additional reduction is necessary after attrition and the layoff of temporary and/or substitute ESPs, then ESPs may be reduced in hours or months of employment, transferred, or laid off in accord with this Agreement. **NO INVOLUNTARY ADJUSTMENT OF WORK SHALL BE ARBITRARY, CAPRICIOUS, OR WITHOUT BASIS IN FACT. AN INVOLUNTARY ADJUSTMENT OF WORK SHALL NOT BE USED AS A SUBSTITUTE FOR EVALUATION OR DISCIPLINARY ACTION.**

12-2 Involuntary Transfer/Involuntary Work Adjustment

- A.** If it becomes necessary for the District to involuntarily transfer an ESP or initiate an involuntary work adjustment, the following will apply:
 - 1.** An affected ESP with the most District seniority, whose assignment is for 8 hours and 12 months a year, shall be transferred to another 8 hour/12 month position within his/her classification.
 - 2.** The least senior 8 hour/12 month ESP(s) in the classification shall be reassigned to a vacated position within his/her classification, and there is no guarantee that an ESP will retain the same number of months, hours, shift or days of work when transferred. Under no circumstances will an ESP be offered a position of less than four (4) hours per day.
 - 3.** ESPs in positions of less than 8 hours, 12 months shall be transferred in inverse order of their District seniority to other positions in their classification and there is no guarantee that an ESP will retain the same number of months, hours, shift or days of work when transferred. Under no circumstances will an ESP be offered a position of less than four (4) hours per day. Full-time Food Service employees will not be assigned less than four hours per day.
 - 4.** ESPs whose hours or length of employment are to be reduced will receive at least ten (10) days written notice prior to the effective date of reduction. This written notice shall be simultaneously transmitted to TEA.
- B. Exceptions - Involuntary Transfer**
 - 1.** ESPs not re-hired due to a "new school" process will be involuntarily transferred.
 - 2.** Once school has commenced in the fall, teacher assistants in established exceptional education classes may not be displaced by a more senior assistant as a result of application of this Article.
 - 3.** When established exceptional education classes and their teachers are relocated to a new site, the exceptional education teacher assistant will choose either to: a) relocate along with the class, provided the position continues to be budgeted; or b) exercise his/her seniority in accord with Article 12-2.
 - 4.** In exceptional education situations where an exceptional education teacher assistant has been assigned on a one-to-one basis with a student and that student is relocated to a different site, the teacher assistant will choose to: a) relocate with the student, provided the position continues to be budgeted; or b) exercise his/her seniority in accord with Article 12-2.
- C.** If an involuntary transfer within the same classification is not available, the ESP will be given the option of transferring to a vacant position in a comparable classification in which the ESP meets minimum qualifications, or moving to a vacant position in a classification previously held within the bargaining unit by exercising his/her District seniority.
- D.** An ESP transferred in this process is not guaranteed the same number of months, days, or hours in the new assignment. Under no circumstance will an ESP be offered a position of less than four hours per day.

- E. In the event there is more than one ESP requiring involuntary placement to a different classification, then District-wide seniority will be utilized in determining seniority preference for placement. The ESP with the greatest District seniority will be offered first option for placement in vacant positions identified by Human Resources.
- F. Under no circumstance shall an ESP be transferred into a classification that will result in a promotion, unless the previous classification has been upgraded through the process in Article 10.
- G. If after following all steps outlined above, there is no vacancy for an ESP affected by Article 12-2-C, the terms of Article 13 shall apply.

12-3 Involuntary Demotion

When an involuntary demotion is initiated by the District, the ESP will be placed in a position or in an available vacancy for which he/she meets the minimum qualifications.

- A. When an involuntary demotion is initiated, the ESP will be placed in the new grade and classification at the existing step closest to, but no more than, their hourly rate of pay prior to the involuntary demotion.
- B. This action shall not be used as an alternative to disciplinary action.

12-4 Rights to Return

A. Before a vacancy is filled by recall or pursuant to Article 8 or 9 (recruitment/selection), the position shall be offered to ESPs involuntarily transferred within the prior twelve (12) months, with the exception of ESPs involuntarily transferred due to a "new school" declaration. In this case, Article 12-4 is in effect for vacancies at a "new school" after a period of two (2) years from the involuntary transfer. The priority order used for filling these vacancies shall be:

1. ESPs transferred or reduced in hours or months from the same site as the vacancy, who are currently in or were transferred from the same classification as the vacancy.
2. ESPs assigned to a different classification or demoted from the same classification as the vacancy.
3. ESPs reduced in hours from full-time to part-time, if vacancy is a full-time position within same classification.
4. ESPs reduced from a twelve month position if vacancy is a twelve month position within same classification.

B. In the case where more than one (1) ESP is eligible to return, the ESP with the most District seniority will have first choice in placement. Each subsequent ESP will be given the same opportunity until the last person with the lowest seniority is reassigned to the last vacant position. An ESP shall have five (5) days from the date the notification is signed to respond to an offer to return. If an ESP is offered and fails to respond or refuses a position which restores him/her to their previous site, classification, hours of work and months of employment, then future return rights will be terminated.

C. Transfer shall not be used as a substitute for evaluation or as a disciplinary measure. Transfer in no way reflects on the competency or the qualification of any ESP transferred for any reason.

Human Resources will be responsible for generating computerized listing(s) to include the ESP(s) by name, worksite, classification job code, District seniority, hours per day.

12-5 Temporary Involuntary Site Transfer

If it becomes necessary for the District to involuntarily transfer an ESP on a short term temporary basis, the District will identify ESPs throughout the District that can be transferred. Each site administrator will submit a list to Human Resources with the name(s) of ESP(s) that can be transferred. ESP(s) will then be notified by Human Resources when a transfer is to be made and the length of time of the transfer.