

Appendix B

**OPSEU Collective Agreement
Explanatory Note**

**Temporary Vacancies
Article 20.8**

Updated September 2017

Explanatory Notes on the application of the OPSEU Collective Agreement were developed by the Employer in consultation with OPSEU. They have been written to provide information to OPS managers and employees represented by OPSEU. Explanatory Notes are not intended as a substitute for the language of the Collective Agreement. Reliance should only be placed on the actual text of the OPSEU Collective Agreement.

This updated Explanatory Note and the amended provisions of Article 20 under the 2018-2021 OPSEU Collective Agreement apply as of June 22, 2017.

Managers who have questions about the information in this Explanatory Note should contact their Human Resource Advisor.

Employees who have questions about the information in this Explanatory Note should contact their manager, the Human Resource Advisor or an OPSEU representative. Employees who have received a notice of lay-off should contact the Designated Human Resource contact that is identified in their notice of lay-off letter.

What is a temporary vacancy under Article 20.8?

It is an assignment:

- in the OPSEU bargaining unit; has a duration of at least six (6) months
- is in the employee's home ministry; and
- is posted in accordance with Article 8 for recruitment in the last two (2) months of the employee's notice of lay-off period.

The duration of a temporary assignment can be extended by no more than a maximum period of three months (for example: one 3 month extension, three 1 month extensions, etc.). So, at the outset, ministries should be as accurate as possible in predicting the length of the assignment.

What are the criteria for assignment to a temporary vacancy under Article 20.8?

To be eligible for assignment under this Article, surplus employees must meet all the following conditions:

- be within the last two months of their notice of lay-off period
- indicate on their application for the posted competition that they have received notice of lay-off and are eligible for a temporary assignment
- meet the entry level qualifications for the position
- have been issued a notice of lay-off from the Ministry where the position is posted
- be applying for a vacancy that:
 - is in the same classification, or in the same class series within a range of two classifications below the employee's current ('surplus') home position; or
 - is in the same classification of a position that the employee previously held on a full-time basis or where the employee performed the full range of job duties on a temporary basis for at least twelve (12) months
 - And there is no other employee who was issued a notice of lay-off that applied and was deemed qualified for the position who has a greater length of continuous service

What are “entry level qualifications”?

Entry level qualifications mean that the employee must have the necessary skills and knowledge to perform the position at an entry level basis. Note – if required, the employee may receive some on the job coaching and training in fulfilling the major components of the job when entering the position.

What are the geographic requirements for assignment to a temporary vacancy?

Employees may apply to posted temporary competitions through the Targeted Direct Assignment (TDA) process for vacancies in any location, including locations that are beyond 40 kilometres.

Are employees assigned to a temporary vacancy under Article 20.8 eligible for relocation expenses?

No, employees assigned to a temporary vacancy under Article 20.8 in their last two (2) months of their notice of lay-off period are not eligible for relocation expenses.

What is an employee's status while assigned to a temporary vacancy under Article 20.8?

While on assignment, employees retain their status in the regular service and retain their current salary.

When an employee is assigned to a temporary vacancy in their last two (2) months of their notice of lay-off period under Article 20, his or her notice of lay-off period will be put on hiatus. During the hiatus, the employee may continue to identify and be considered for permanent vacancies or Voluntary Exit Option (VEO) opportunities through the Targeted Direct Assignment (TDA) process under Article 20.3. All other redeployment activities (for example: displacement) shall cease during the hiatus and will not recommence until the temporary assignment has concluded.

An assignment to a temporary vacancy will extend the original notice of lay-off end date. The notice of lay-off period is considered on hiatus, including displacement opportunities and will resume once the employee's temporary assignment ends. Following completion of the temporary assignment, the employee's notice of lay-off date will reflect the new notice of lay-off end date.

For example: An employee's lay-off date is October 26, 2016. In September 2016, the employee is assigned to a temporary vacancy through the TDA process for a duration of seven (7) months. The employee accepts and starts the assignment on September 26, 2016. Their notice period is put on hiatus effective September 26, 2016 including displacement opportunity if any, but they can continue to identify and be considered for permanent vacancies and VEO opportunities under the TDA process. Given that the employee had 31 days left in his or her notice period, this is the amount of time that the employee will have left in their notice period upon completion of the temporary assignment. If the temporary assignment ends on April 25, 2017, the employee's lay-off date would be revised to May 26, 2017. During the period of time between the end of the temporary assignment and the new lay-off end date, the employee is eligible to apply for both permanent and temporary vacancies and VEO opportunities through the TDA process, and is also eligible to displace a less senior employee since the employee is now in his or her 6th month of their notice of lay-off period (provided they submitted a Displacement Election Form, are within 40 kilometres of the displaced position and the employee is qualified to perform the work).

Can a ministry assign an employee who has applied for a temporary assignment through the TDA process to a temporary vacancy under Article 20.8 earlier than the last two months of notice of lay-off period?

No. A ministry cannot assign an employee to a temporary vacancy under Article 20.8 earlier than the employee's eligibility rights to the last two months of notice of lay-off period.

However, the employee can be **offered** a temporary assignment in advance of the last two months of notice under Articles 6 or 8 of the collective agreement. As this is not an assignment through the TDA process under Article 20.8, the employee is not compelled to accept this temporary assignment and a refusal to accept such an offer will not affect his or her entitlement to a temporary assignment under Article 20.8 in their last two months of notice. Further, if the **offered** temporary assignment was **not** filled competitively, the employee's temporary assignment will run concurrently with the employee's notice of lay-off period. If the **offered** temporary assignment is filled competitively, the employee's lay-off notice is put on hiatus and the employee may continue to identify and be considered for vacancies under Article 20.3.

During an assignment to a temporary vacancy, can an employee continue training that commenced prior to the period of the assignment?

Yes. When a temporary assignment takes place, the employee will not be unreasonably denied the opportunity to complete any training already started when assigned to a temporary assignment.

Can an employee refuse a temporary assignment made under Article 20.8?

Yes. An employee who applies for and refuses a temporary assignment under Article 20.8 will retain all of their employment stability entitlements including the availability for a targeted direct assignment to posted permanent vacancies and VEO opportunities except they will not be considered for further temporary assignments.

What if an employee does not have an employee portfolio (EP)?

If an EP has not been completed, the surplus employee's job specification will be used to represent his or her skills and experience.