

teacher COLLECTIVE AGREEMENT

administration bulletin

BRITISH COLUMBIA
PUBLIC SCHOOL EMPLOYERS'
ASSOCIATION

9

March 2, 2007

By E-mail: 4 Pages

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Irene Holden Clarifications

On February 28, Irene Holden issued two letters of clarification to supplement her decision issued on January 16, 2007.

The letters are attached. In summary, they provide the following clarification:

Portability

- The length of the break in service and the reason for the break in service do not affect an employee's right to port sick leave and/or seniority.
- The onus is on the employee to provide verification of his/her seniority and sick leave credits.
- School districts must provide a form for this purpose and must make every reasonable effort to retrieve and verify the information.
- The employee must initiate the verification process within 90 days of hire for sick leave and within 90 days of obtaining a continuing contract for seniority.
- TOC seniority from multiple school districts is accepted but only up to the point of obtaining a continuing contract at which point the porting calculation "crystallizes".

Preparation Time

- In order to comply with the averaging provision in the first year of the collective agreement (PCA 3), preparation time DOES NOT have to be made up due to a schedule disruption such as a statutory holiday.

Given the outstanding issues with respect to this clause, BCPSEA previously advised districts not to act on C.2.2 or G.1.1 until Irene Holden issued her decisions. With these clarifications, we are now able to provide direction to school districts with respect to implementing the provisions for porting seniority and sick leave in the current school year. Please note the following advice in this regard.

Implementation of Article C.2.2 — Porting of Seniority

Who may be eligible to port seniority?

Any teacher who was hired to commence employment in a new school district effective September 1, 2006 or later and who has terminated employment with a previous school district is eligible to port seniority under this clause.

Although article C.2.2 shows an effective date of September 1, 2006, as a transition matter, BCPSEA and BCTF have agreed to extend the application of this clause to teachers who were hired in the spring or summer for employment commencing in September 2006 or later.

It does not matter how many years have elapsed since the teacher left the former district(s) or the circumstances under which s/he left the former district, a teacher may still port seniority. (In this regard, Irene Holden noted that the circumstances should be taken into account at the time of hiring.)

Teachers who commenced employment in a new district prior to September 2006 are not eligible to port seniority to their current district under C.2.2; nor are teachers who have accepted positions in a new district but remain on leave from a previous district. Teachers must sever their employment relationship in order to be eligible to port seniority.

When are they entitled to port?

A teacher is eligible to port seniority **at the point at which s/he achieves continuing contract status** — either through a direct appointment or through conversion provisions in the collective agreement.

A teacher who was hired directly into a continuing contract commencing in September 2006, is now entitled to port seniority from previous BC school district employers.

A teacher who was hired as a TOC or on a temporary contract will be eligible to port at the point that s/he is granted continuing status.

What are they entitled to port?

The teacher may port seniority credits earned in any previous school district in BC to a maximum of 10 years credit.

Unlike the various provisions for determining experience credit, the seniority a teacher ports will be determined by the rules in the teacher's previous district(s). It does not matter that s/he may have been given credit for time that would not attract seniority credits in the receiving district nor if s/he is not provided credit which would have been earned under the provisions in the receiving district.

How is the credit to be verified and ported?

The teacher bears the onus to initiate the request for verification. The receiving district must provide a form for this purpose (see below) and the previous district must make every reasonable effort to retrieve, verify and forward the information to the new district.

BCPSEA has been working with the BCTF to develop a template form for districts to use. We will forward a copy of this form to every school district once it is finalized.

We are asking districts to distribute the forms immediately upon receipt and to respond to requests for information no later than the end of March. Normally a teacher would have 90 days in which to forward the request to previous districts, but given the urgent need of districts to finalize their seniority lists prior to making decisions with respect to layoffs, and/or with respect to filling vacancies, teachers should be instructed to send the verification forms immediately. For implementation this year only, we will be suggesting that boards act in concert in this regard, so that boards are not required to access old records multiple times.

Note that once a teacher has requested a block of seniority credits be ported to another district, the seniority transfer must be recorded to ensure that it is only transferred once.

Implementation of Article G.1.1 – Porting of Sick Leave

Who may be eligible to port sick leave?

Any teacher who has been hired on a continuing contract, on a temporary contract, or as a TOC, and who commenced employment in a new school district effective September 1, 2006 or later is eligible to port sick leave. A teacher who is on an exchange to another district in this school year is also eligible to port sick leave under this clause.

It does not matter how many years have elapsed since the teacher left the former district(s) or the circumstances under which s/he left, a teacher may still port sick leave.

A teacher who commenced employment in a new district prior to September 2006 is not eligible to port sick leave under G.1.1; nor is a teacher who has accepted a position in a new district but remains on leave from a previous district. Only a teacher who has severed the employment relationship or is on an approved exchange is eligible to port sick leave.

When are they entitled to port?

Now.

What are they entitled to port?

The teacher may port sick credits earned in any previous BC school district(s) to a maximum of 60 days.

As with seniority, the sick leave credits being ported have been earned under the provisions of the previous school district.

How is the credit to be verified and ported?

As with seniority, the teacher bears the onus to initiate the request for verification. The receiving district must provide a form (see below) and the previous district must make every reasonable effort to retrieve, verify and forward the information to the new district.

BCPSEA has been working with the BCTF to develop a template form for districts for this purpose. We will forward a copy of this form to every school district once it is finalized.

Although there is less urgency for sick leave credits to be verified, for efficiency reasons we are asking boards to deal with both issues at the same time and teachers should be advised to initiate both verification processes together.

It is important to note that once a teacher has requested a block of sick leave credits be ported to another district, the sick leave transfer must be recorded. This will ensure that it is only transferred once and that it is not left in the employee's bank to be reactivated when an exchange has concluded or should an employee return to district employment as some agreements provide.

Note also, that in future years, the onus will be on the employee to initiate the verification process within 90 days of being hired into the new district.

BCPSEA will now proceed to update and distribute our *Teacher Collective Agreement Administration (TCAA) Manual* as well as refine the suggested forms regarding portability. In a separate e-mail, we are advising of a number of conference calls to provide further assistance and to answer questions with respect to these and other current issues.

Questions

Please direct any questions to your BCPSEA district liaison.

Distribution of this Bulletin

Please ensure that this bulletin is circulated to all administrative staff in both the district office and schools who must rely on the collective agreement in the performance of their duties.

Attachments: (2)

- Irene Holden Letter of February 28, 2007
- Irene Holden Letter of February 20, 2007