

Appendix D

**OPSEU Collective Agreement
Explanatory Note**

**Recall
Article 20.6**

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 recall?

Recall means the assignment of a laid off employee to a vacant position in their former ministry within twenty-four (24) months of lay-off provided that they meet the criteria under Article 20.6. That period may be extended by up to twelve (12) months, to a maximum of thirty-six (36) months, if the employee's position was identified for surplussing in connection with the transfer of bargaining unit work/functions such that either Appendix 14 (Successor Rights) or Appendix 9/18 applies, and the employee participates in an approved education program within twelve (12) months of lay-off.

Who has recall rights?

- A laid off employee who maintains recall entitlements has recall rights for twenty-four (24) months where they did not receive a targeted direct assignment or accept a displacement opportunity by the end of their notice period.
- Where an employee's position was identified for surplussing in connection with the transfer of bargaining unit work/functions such that either Appendix 14 (Successor Rights) or Appendix 9/18 applies, an employee that participates in an approved education program within twelve (12) months of lay-off may extend their recall rights for a period equivalent to the length of their program, up to

twelve (12) additional months, for a maximum recall period of thirty-six (36) months from their date of notice of lay-off.

Recall rights do not apply to an employee who receives a notice of lay-off and:

- who resigns during their notice of lay-off period and takes pay-in-lieu;
- who is laid off and takes termination pay under Article 53 or Article 78 and/or their enhanced severance pay under paragraph 4b of Appendix 9;
- who does not attend a recall interview when requested by the Employer;
- who accepts a recall appointment and fails to report for duty on the specified date;
- who does not accept a recall appointment; or
- where twenty-four (24) months after the date of his or her lay-off have passed.

Deferral of Termination and Severance Payments

To be eligible for recall, a laid off employee must defer receiving Article 53 or 78 termination pay. He or she also must defer receipt of their enhanced severance payment under Paragraph 4b of Appendix 9.

What are a laid off employee's recall rights?

Employees who have been laid off are eligible for recall rights for a period of twenty-four (24) months after the lay-off date, or up to thirty-six (36) months when they participate in an approved education program pursuant to Article 20.5.2, and can be recalled to a vacant position (temporary or regular position) if:

- he or she identifies and applies to the position in writing to the designated Human Resources contact on or before the closing date; and
- the position is in the OPSEU bargaining unit; and
- the position is a vacant position in the same classification and ministry as the laid off employee's former position (for example: a laid off employee on recall whose former position was an SO3 with Ministry of Government and Consumer Services can only apply for recall to an SO3 posted vacancy within the Ministry of Government and Consumer Services); and
- the laid off employee is qualified to perform the required duties of the position; and

- there is no other person who is qualified to perform the required duties, who has a greater length of continuous service and who is eligible for assignment to the vacancy either pursuant to recall or targeted direct assignment.

A laid off employee with recall rights can also apply to restricted competitions to which they may not meet the above recall criteria (for example: any posted OPS vacancy) for a period of twenty-four (24) months from the lay-off date. They will be provided with the information they need on how to access the restricted competitions (i.e. those competitions restricted to OPS employees), providing the laid off employee is within the specified area of search (for example: geographic). A laid off employee on recall who applies for an advertised vacancy competes for that vacancy on the same basis as all other applicants — that is, he or she does not have a greater right to be appointed to the position. It should be noted that pre-lay-off seniority is not credited until after appointment to the position, i.e. the laid off employee has no seniority for the competition process. Appointment to a position terminates the employee's recall rights.

Are laid off employees on recall restricted to applying within a 40 kilometre radius of a vacant position's headquarters or of the employee's previous headquarters?

Laid off employees are not geographically restricted while applying for recall opportunities. Relocation expenses will not be paid to recalled employees.

Should a laid off employee lose their recall rights under Article 20.6.5 (a) – (d), they will retain their right to apply to restricted competitions for a period of twenty-four (24) months from the lay-off date. If the laid off employee accepts a position after receiving their termination or severance entitlements, he or she needs to be aware of the repayment obligations under Article 20.2.5.

Relocation expenses will not be paid to laid off employees reappointed per the recall process.

What does “qualified to perform the required duties” mean?

This means that in order to be recalled to a vacancy, the laid off employee must have the necessary skills and knowledge to perform the core components of the position at a working level and will not require training in these areas of the position.

For the purposes of Article 20, training does not refer to the orientation and integration any employee would normally receive when entering a new position.

How does the laid off employee notify the Employer of his or her desire to be recalled to a vacancy?

Laid off employees with recall rights must apply to a vacancy by submitting a new Employee Portfolio (EP) that includes the Job ID number to which they are applying. Laid off employees can customize each EP to highlight the skills that are most relevant to each vacancy to which they are applying. Laid off employees should send their completed and signed EP to applyTDA@ontario.ca. Vacancies available for potential recall opportunities are accessible to laid off employees through the OPS Careers website.

The Employer must have current information on laid off employees with recall rights. Laid off employees must inform their designated Human Resources contact promptly of any changes to their contact information in writing or electronically.

A written notice of reappointment will advise the laid off employee on recall when he or she is required to report for duty. This date must be at least two (2) weeks (fourteen (14) calendar days) from the date when the laid off employee received recall notice. A minimum of two (2) weeks is required to allow the person to give reasonable notice to his or her current Employer, if necessary. A laid off employee can seek agreement for an alternative start date.

An eligible laid off employee, who receives written notice of recall, must accept the recall position within seven (7) calendar days of receiving the written notice. If he or she does not reply within the specified time period, or refuses the recall position, he or she forfeits all recall rights.

Pay Treatment

A laid off employee who is recalled to a position will be paid at a rate within the position's salary range equivalent to the rate at which he or she was paid immediately prior to lay-off. It is possible that during the time the laid off employee is on recall, the rate of pay in the classification could change. In this case, the rate of pay if assigned to a position should not decrease, so if there has been a rate adjustment, then, in classifications that use steps, the rate of pay will be the closest step up.

Can recall rights be lost?

A laid off employee's recall rights are terminated if he or she:

- takes termination pay under Article 53 or Article 78;
- takes severance pay under paragraph 4b of Appendix 9;
- does not attend a recall interview, if the ministry requests him/her to attend one;
- does not accept a recall assignment within seven (7) calendar days of delivery of a recall notice;

- accepts a recall assignment and then fails to report for duty on the date specified in the recall notice;
- is appointed to an OPS permanent position outside the recall process; or
- has not been recalled within a period of twenty-four (24) months since his or her lay-off date, or up to thirty-six (36) months (if applicable).

Questions & Answers

1. How long do I have to apply to competitions through the recall process?

Answer. You can apply to open and restricted OPSEU-represented vacancies in accordance with the recall process within twenty-four (24) months after your lay-off date, or up to thirty-six (36) months if you have extended your recall period by participating in an approved education program in accordance with Article 20.5.2.

2. Can I apply to positions when I do not have recall entitlements?

Answer. Yes, you can apply to any competition on [eCareers](http://www.gojobs.gov.on.ca/allJobs.aspx) (<http://www.gojobs.gov.on.ca/allJobs.aspx>) through the normal recruitment process.

3. Do I have to submit a new Employee Portfolio for every position I apply to as a recall opportunity?

Answer. No. Once you have completed an Employee Portfolio and submitted it to the employer, it will be considered current. But remember, each EP you submit should be tailored to reflect how you meet the specific requirements of the position, and it is your responsibility to ensure it remains updated

4. Will I be contacted if I am not assigned to a recall opportunity to which I have applied?

Answer. No, only successful applicants will be contacted. You will not be notified if you are unsuccessful. If you have not been contacted and need an update as to the status of the recall opportunity, contact your designated HR contact for further information.