

**OPSEU Collective Agreement
Explanatory Note**

**Targeted Direct Assignment
(TDA)
Article 20.3 (full-time)
Article 62 (regular part-time (RPT)
and flexible part-time (FPT))**

Updated March 2014

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 2013-2014 OPSEU Collective Agreement apply as of April 1, 2013.

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 layoff should contact the Designated Human Resource contact that is identified in their notice of layoff letter.

What is Targeted Direct Assignment?

Targeted Direct Assignment (TDA) means the assignment of a surplus employee, during the notice period, to an appropriate vacant position or Voluntary Exit Option (VEO) opportunity (See the VEO Explanatory Note, and managers can refer to the interpretive bulletin) in the Ontario Public Service. The process implemented April 1, 2013, differs significantly from the previous redeployment process under the 2009-2012 OPSEU Collective Agreement insofar that the redeployment process changed from an employer-driven one to an employee-driven process.

An OPSEU-represented employee who has received a Notice of Layoff (NOL) and elects to remain available for targeted direct assignment will now have to search for and apply to competitions where he or she believes he or she has entitlements by using the Ontario Public Service Careers website at <http://intra.Careers.gov.on.ca>. Vacancies posted as “**Restricted to OPSEU-represented Employees on Notice of Layoff**” are restricted to OPSEU-represented employees with targeted direct assignment or recall rights.

In the event that employees are impacted by a “Transformation Program” under Appendix 40, the parties may, at the Ministry Employee Relations Committee (MERC), agree to allow impacted employees to access the provisions of Appendix 40. Under this

Appendix, interested “impacted employees” who have yet to receive notice of layoff will be deemed to have received their notice of layoff as per Article 20.3 for the purpose of TDA only (see the Explanatory Note on Appendix 40 regarding the rights of these “impacted employees” to access temporary assignments prior to receiving notice of layoff). Transformation Program(s) are defined as programs and/or services that will transform in such a way that 50 or more OPSEU represented employees will be declared surplus, and the disclosure identifying the “impacted employees” has been provided to OPSEU, and does not include a “sale of a business” pursuant to section 69 of the Labour Relations Act, 1995. Please see the Explanatory Note regarding Appendix 40 for further information.

What are the criteria for targeted direct assignment?

A surplus employee can only be directly assigned to a position if:

- using the employee portfolio, the employee applies for and indicates on his or her application for the competition that he or she has received notice of layoff and is eligible for a targeted direct assignment; and
- he or she meets the entry level qualifications for the position; and
- the vacancy is either:
 - in the same classification, or in the same class series within a range of two classifications below the employee’s current home position; or
 - 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.
- there is no other eligible employee 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 Article 20.3 or Article 20.6 (Recall).
- where two or more employees with the same continuous service are deemed qualified to the same targeted direct assignment and one of the employee’s surplussed positions is in the same Ministry where the vacancy is, he or she will be assigned to the vacancy.

Surplus employees may apply to competitions beyond 40 km through the TDA process; however no relocation expenses will be paid.

All other considerations being equal, a surplus employee will be matched to the position of the voluntary exit option employee over assignment to a vacancy per Article 20.7.3. Note also that rights specified in Article 20.7 (Voluntary Exit Option) shall be exercised before any displacement or TDA rights in accordance with Article 20.7.9.

What are “entry level qualifications”?

Entry level qualifications mean that the employee must have the necessary skills and knowledge to perform the major components of the position on an entry level basis.

How does the employee apply for a TDA?

When an employee’s position is declared surplus and he or she elects to be eligible for TDA, the surplus employee searches for and applies to competitions where he or she believes he or she has entitlements, using the Ontario Public Service Careers website. The employee is required to submit their Employee Portfolio to applyTDA@ontario.ca prior to the closing date of the competition.

What is the employee portfolio?

Each surplus employee is asked to complete or update an Employee Portfolio (EP) where the employee can set out their skills, abilities and experience. The designated Human Resources Contact identified on the notice of layoff letter is available to assist with the completion of the EP. All new employees are to complete an EP upon being hired in to the OPS. The EP document and information about this document can be found on the Employment Transition page of MyOPS Employee Services - HROntario Services - HROntario Services: employment - Employment Transition.

The Employee Portfolio is used by the Employee to apply to each Targeted Direct Assignment or Voluntary Exit Option identified through the Ontario Public Service Careers the employee wishes to be considered for. The Employee would also include the Employee Portfolio along with the Displacement Election form, when opting to be considered for displacement (see Displacement Explanatory Note).

Where an employee wishes to include the qualifications and knowledge of their current home position they must attach a copy of their current home position description to the Employee Portfolio.

Upon request to the employee’s supervisor or designated Human Resources contact, the employee will be provided with a copy of their home position job description to attach to the EP. An employee may update their EP at any time on or before the posted application deadline to reflect the acquisition of new or improved skills, knowledge and abilities. While the employee can submit at a minimum the first page (“Personal Information” section) of the EP with their current home position description, the employee is encouraged to submit a fully completed EP in order to assess their skills, knowledge and abilities.

An Employee Portfolio is not required for employees whose positions are on the job trades list in Appendix 50 and who apply to the same position and classification. See Question and Answer on how positions on the Job Trade list are treated.

Are there any differences in entitlements between full-time, RPT and

FPT* employees?

RPT and FPT employees have access to all surplus entitlements provided to full-time employees with some exceptions:

- RPT and FPT employees are only eligible to TDA (including recall) to either RPT or FPT positions
- RPT and FPT employees can only displace either RPT or FPT public servants.

How are surplus employees directly assigned to eligible positions?

Surplus employees must identify and apply for competitions posted on the OPS Careers website which they are interested in and which they meet the criteria for. The Employer will review the TDA applications received against the competition criteria and advise successful employees within 10 working days of the competition's closing date if assigned to the position. The employee then has five (5) working days to respond whether the assignment will be accepted.

Surplus employees may also identify and apply for Voluntary Exit postings on the OPS Careers website which they are interested in and which they meet the criteria for. For further information regarding Voluntary Exit, please refer to the Explanatory Note entitled "Voluntary Exit Option."

If a surplus employee applies to multiple competitions through the TDA process, his or her application will be considered on a chronological basis that aligns with the closing date of the job posting. Should a surplus employee wish to withdraw from a competition prior to the closing date of the job posting he or she may do so. It should be noted, the employee is not permitted to withdraw after the closing date of the job posting; he or she will be considered for the position.

In the event that two surplus employees are deemed qualified for the same position through the TDA process, the employee with the most seniority will be assigned. In the case that two surplus employees have the same seniority, if one of the positions is in the Ministry that the employee was surplus from, he or she will be assigned.

Under the new TDA process, surplus employees' entitlements include the eligibility to apply to vacancies of positions in the same classification as the position the employee previously held on a full time basis or where they performed the full range of duties on a temporary basis for at least 12 months. What are the criteria for

*Per Appendix 32 (Letter of Understanding Court Support Services), irregularly scheduled (i.e., Flexible Part-Time) regular court support staff employed by the Court Services Division of the Ministry of the Attorney General (MAG) have entitlements to Article 62 (RPT Employment Stability). Irregularly scheduled regular court support staff of MAG are the only employees recognized as FPT employees under the OPSEU Collective Agreement.

determining whether a surplus employee “performed the full range of job duties” of a temporary position “on a full-time basis”?

- the employee cannot have been assigned to “underfill” the position; and
- the 12 months must have been “active” service (that is, periods of “inactive” service, such as leaves of absence, sick leave, etc. will not be counted); and
- the 12 months does not have to be consecutive; it can be cumulative; and
- the employee can have performed the full range of job duties on a temporary basis as a fixed-term employee, seasonal employee, or student.

Can a surplus employee refuse a targeted direct assignment?

If a surplus employee refuses a TDA, he or she forfeits all rights to targeted direct assignments, displacements and Article 20.8 temporary assignments and will be laid off at the end of notice period.

If a surplus employee applies to multiple competitions through the TDA process, are they able to wait for all of the results and choose a preferred direct assignment?

No, a surplus employee may not choose a preferred direct assignment from those competitions to which they have applied via the TDA process.

For example, employee A was surplus from an 08OAD classification with headquarters in Toronto. Employee A had previously held an 09OAD classification on a full time basis. Employee A applies to a TDA vacancy for an 09OAD located in Peterborough (beyond 40km) and a TDA vacancy for an 06OAD in Toronto; both job postings close on the same day. Employee A is determined to have the greatest length of continuous service and entry level qualified for both vacancies. Employee A will be offered the targeted direct assignment to the 09OAD position in Peterborough (beyond 40km).

Another example, relying on employee A’s above-noted work history, employee A applied to a TDA vacancy for an 06OAD in Toronto and the job posting closed on a Monday. Two days later, on Wednesday, Employee A applied to a TDA vacancy for an 07OAD in Toronto and the job posting closed that same day. Of all the applicants, employee A is determined to have the greatest length of continuous service and entry level qualified for the 06OAD position. Employee A will be offered the targeted direct assignment to the 06OAD position in Toronto and will not receive the outcome of the 07OAD position.

The employee receives a letter confirming his or her placement into a permanent vacancy through the TDA process. He or she then no longer has rights to targeted

direct assignments, displacements and Article 20.8 temporary assignments and he or she will be laid off at the end of notice period if the position is refused.

If a surplus employee is on a temporary assignment (excluding Article 20.8 temporary assignments) and accepts a TDA, is the employee permitted to conclude the temporary assignment?

Where a surplus employee is assigned through TDA and is on a temporary assignment (excluding Article 20.8 temporary assignments) the receiving manager, as a best practice, should consider the impact of ending the temporary assignment early and collaboratively the two managers are to determine a reasonable start date.

How long is the surplus employee able to search for a targeted direct assignment?

The search for a targeted direct assignment can continue throughout the 6-month notice period or until a TDA is offered. After four months, the employee can also apply for posted temporary assignments through the TDA process under Article 20.8. At the beginning of the sixth month of the notice period, the employer is obligated to identify a displacement opportunity, if one exists. Surplus employees can turn down a displacement opportunity and still be eligible for a targeted direct assignment for the remainder of the notice period. If an employee accepts a displacement opportunity, they are no longer eligible for a targeted direct assignment. For more information, see the applicable Explanatory Notes.

Red-Circle Salary Protection

If employees are assigned into lower-paying positions through targeted direct assignment, they will continue to be paid the salary of their former positions and are entitled to salary progression based on merit to the maximum salary of their former positions for the term of the salary cycle – that is, for the term of the OPSEU Collective Agreement. Any revision of the maximum salary of the former position that takes effect during the term of the collective agreement in which an employee starts the new assignment will be deemed to be the red-circled maximum salary.

Can surplus employees claim relocation expenses?

No, surplus employees are not eligible for relocation expenses. Surplus employees may apply to and accept a TDA beyond a 40 kilometre radius of their own headquarters; however, no relocation expenses will be paid if assigned to such a position.

How does the Job Trades list (Appendix 50) interact with Targeted Direct Assignment?

If a surplus employee is in a position included in the Job Trades list in Appendix 50, and identifies a potential TDA to the same position in the same classification that is posted

on the OPS Careers website, he or she will be deemed to be qualified for the position without having to complete an EP. They must identify the vacancy through the TDA process in order to be considered.

Can a surplus employee apply to a competition to which they do not meet the TDA criteria ?

Surplus employees are not precluded from applying to competitions through the regular OPS recruitment process; however they will not have any Article 20 rights or entitlements to those positions. An Employee Portfolio should not be used if applying for a vacancy through the regular OPS recruitment process.

What happens if a surplus employee has not been offered a TDA by the end of their notice period?

Where the employee has elected to not retain their recall rights (see Recall Explanatory Note), then upon termination of their employment he or she will receive:

- termination payments as provided in Article 53 (i.e., 1 week's pay for each year of continuous service to a maximum of 26 weeks); and
- enhanced severance as provided in paragraph 4b of Appendix 9* (1 week's pay for every completed year of continuous service, no maximum); and
- the right to apply for restricted competitions from the last day of work until 24 months from the date on which lay-off would have otherwise occurred.
- Tuition reimbursement as per Article 20.5

*Note: Paragraph 4b of Appendix 9 will not apply to employees who: are eligible to retire and receive an actuarially unreduced pension; or will become entitled to receive an actuarially unreduced pension through the application of paragraph 2a of Appendix 9; or employees described in paragraph 1 of Appendix 9 who are transferred to a new employer; or who decline a transfer to a new employer per paragraph 1b of Appendix 9.

Will I have to repay monies, if I am re-employed by the OPS?

A surplus employee who accepts pay in lieu of notice and is re-employed by the OPS **prior** to the originally projected lay-off date will repay to the ministry a sum of money equal to the amount paid for the period between the date of re-employment and the original projected lay-off date. Additionally, the employee will repay to the ministry all monies received under paragraph 4 of Appendix 9.

A surplus employee who accepts pay in lieu of notice and is re-employed by the OPS **after** the originally projected layoff date, and prior to the expiration of a further twenty-four (24) months, will repay to the ministry all monies received under paragraph 4 of Appendix 9.

How will my length of continuous service be treated if I am re-employed by the OPS?

Where a surplus employee has been released pursuant to Article 20 (Employment Stability) and rehired within two (2) years, the period of absence shall not be computed in determining the length of continuous service. However, periods of continuous service before and after such absence shall be considered continuous and are included in determining the length of continuous service per Article 18.3.