

**ARTICLE SEVENTEEN
RETENTION, EXCESSING AND LAYOFF**

A. Retention of Assignment-Regular Substitutes

1. A regular substitute who, upon completion of one year of service in a school, has been notified in writing by the principal that he/she will be reassigned in that school for the following school year shall be assigned for the following school year to a regular substitute opening in that school unless the opening has ceased to exist. In the event that the opening has ceased to exist, the substitute shall be given at least fourteen (14) days notice prior to the beginning of the following school year that the opening has ceased to exist and that he/she will not be reassigned to the school. If such notice is not given and the substitute has not been assigned to another school, the community or assistant superintendent in charge of the school will provide the substitute with the opportunity during the first twenty (20) days of the following school year to perform per diem service available in the district. The opportunity to perform such service will be provided for a number of days, not to exceed ten (10), equal to the difference between fourteen (14) days and the actual number of days notice given to the substitute prior to the beginning of the school year.

2. Regular substitute teachers with more than one year of continuous satisfactory service in a school shall have priority for retention in that school according to their length of service in the school. If it becomes necessary to terminate the services of a regular substitute with more than one year of continuous satisfactory service in a school by reason of appointment, or return from leave or other absence of a regular teacher, or by reason of contraction in the school organization, the regular substitute teacher with the least service in the school will be the first to be released.

3. Where a CPT has been released because the position in the school has ceased to exist, that CPT will have priority for assignment to an unencumbered vacancy in the district. If no such position exists in the district, the Board will place the CPT in a position within the district held by a PPT who has less than one year of continuous satisfactory service in any school within the district. If no PPT in the district has less than one year of such service, the CPT will be placed in an available position within the school system.

4. The seniority rules hereby established shall be applied on the basis of license held, except that elementary school teachers of common branches and early childhood will be grouped together and elementary school teachers of common branches (bilingual) and early childhood (bilingual) according to language will be grouped together for these purposes. Effective September, 2002, licensed teachers of CRMD, EH, HC and Special Education will be grouped together and licensed teachers of CRMD (bilingual), EH (bilingual) HC (bilingual) and Special Education (bilingual) according to language shall be grouped together for purposes of excessing.

5. Regular substitutes teaching out-of-license shall be given preference, on the basis of seniority in the school, over outside applicants for any position in license which becomes available in the school at the beginning of the school year or the school term.

6. A regular substitute whose services must be terminated at any time before the last two weeks of the term by reason of appointment, or return from leave or other absence of a regular teacher, or by reason of contraction in the school organization shall be given ten (10) school days notice of the termination and the reason therefor. If such notice is not

given, the community or assistant superintendent in charge of the school will provide the substitute with an opportunity to perform per diem service available in the district or in a high school for a number of days equal to the difference between ten (10) days and the actual number of days notice given.

7. Regular substitute teachers who have completed one term or more of service in a school and who will not be rehired in that school for the following term shall be given five (5) days notice before the end of the term that they will not be rehired.

8. Regular substitutes are to be given ten (10) school days notice of discharge, except in cases of emergency.

B. Excessing Rules-Appointed Teachers

Before applying the Rules for involuntary excessing, the senior teacher within license (including those whose seniority is determined by Rule 3, 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H or 3I) who volunteers will be excessed from the school to a vacancy within the same district or, in the case of high schools, within the jurisdiction of the responsible high school superintendent. If no senior teacher volunteers, the following excessing rules shall be adhered to in all levels.

Rule 1. Within the school, district or other organizational unit, the teacher with the least seniority within license will be the first to be excessed, and probationers will be excessed before those who have completed probation; except that elementary school teachers of common branches and early childhood will be grouped together and elementary school teachers of common branches (bilingual) and early childhood (bilingual) according to language will be grouped together for purposes of excessing. Effective September, 2002 licensed teachers of CRMD, EH, HC and Special Education will be grouped together, and licensed teachers of CRMD (bilingual), EH (bilingual), HC (bilingual) and Special Education (bilingual) according to language will be grouped together for purposes of excessing.

For purposes of excessing only: (i). Any one or more F Status positions within a license that equals 1.0 FTE (i.e. positions equaling 5 days a week) will be considered a single position (if in one school) or a single position on split assignment (if in different schools within a district). (ii) Prior to an employee being excessed out of a district s/he will be offered the position described in the preceding sentence. (iii) Notwithstanding the restrictions in this paragraph, a school will be allowed to create or maintain the F status positions described in (i) in order to accommodate a hardship for a previously appointed pedagogue or because of the particular needs of the program.

Rule 1-A. To minimize excessing in elementary schools, a junior teacher of common branches or early childhood who has a bilingual ancillary certificate may be retained in the school if no senior teacher of common branches or early childhood has the qualifications to teach a bona fide bilingual class. For this purpose, a bilingual class is one where the majority of students are classified as limited English proficient (LEP) in accordance with the Chancellor's regulations.

Rule 1-B. To minimize excessing, a junior teacher serving in a special education program under a non-special education license who has met the qualifications set forth in Chancellor's Regulation C-311 or C-312 may be retained in the school if no senior teacher in the same license who meets the qualifications set forth therein volunteers to serve in the special education program.

Rule 1-C. To minimize excessing, a junior teacher serving in a resource room or SETSS position may be retained in the school if no senior teacher in the same license who meets the city-wide qualifications volunteers to serve in the resource room or SETSS position.

Rule 2. In determining the seniority of a teacher for purpose of excessing, layoff seniority shall apply.

Rule 2-A. A teacher whose seniority just prior to appointment was determined pursuant to Rule 3, 3A, 3B, 3C, 3F or 3G to be in the same license as present regular appointment shall be deemed to have completed probation in the license for purpose of these excessing rules only.

Rule 3. Except as otherwise provided in Rule 3-G, where teachers of common branches are serving in the junior high schools and intermediate schools and have taught most of their time for three years in a subject area, they shall be considered for seniority purposes with licensed probationary teachers of the subject in which they have taught for the most recent three years.

Rule 3-A. Except as otherwise provided in Rule 3-G, where teachers have served under a high school license in the junior high schools and intermediate schools for three years they shall be considered for seniority purposes with licensed probationary junior high school teachers in the subject area of their license.

Rule 3-B. Except as otherwise provided in Rules 3-C and 3-G, where secondary teachers are serving in elementary schools and have served for three years in the school or for five years at the elementary level, they shall be considered for seniority purposes with licensed probationary teachers of common branches and early childhood.

Rule 3-C. Except as otherwise provided in Rule 3-G, where teachers have served for three years in the elementary schools under a secondary school license for which there is an elementary school license in the same subject area, they shall be considered for seniority purposes with licensed probationary elementary school teachers in the subject area of their license.

Rule 3-D. Teachers serving in Resource Rooms or SETSS positions in the school shall be grouped for seniority purposes and the Resource Room or SETSS teacher with the least seniority will be the first to be released from the Resource Room or SETSS in the school; except that Resource Room teachers and SETSS teachers who have served less than three years in Resource Rooms and SETSS will be released before those who have completed three years in Resource Rooms and SETSS.

Rule 3-E. Where teachers are serving in a Special Education program under a Special Education license which is inappropriate for the program, they shall be grouped regardless of program for purposes of excessing, and such out-of-license teachers shall be excessed in reverse seniority order before any appropriately licensed teacher is excessed.

Where teachers are serving in a Special Education program under a non-Special Education license and possess valid New York State certification in Special Education, they shall be grouped together regardless of program and excessed in reverse seniority order before any Special Education licensed teacher is excessed; and teachers serving under non-Special Education licenses, lacking valid New York State certification in Special Education, shall be grouped together regardless of program and excessed in reverse seniority order before any teacher who possesses a valid New York State certification in Special Education is excessed.

Rule 3-F. These excessing rules will apply to the excessing of teachers from the non-public school program, except that for purposes of excessing teachers from the corrective mathematics component common branches and junior high school mathematics licenses shall be grouped.

Rule 3-G. After October 1, 1987, teachers whose seniority on September 30, 1987 was determined pursuant to former Rule 5, 5A, 5B or 5C to be in a particular license shall be deemed to have completed probation in that particular license for purposes of excessing hereunder.

Rule 3-H. Teachers serving pursuant to an academic license where few opportunities exist for a full program in the license area will be considered for seniority purposes along with licensed teachers of the subject in which they have taught for the most recent three years. A list of license areas subject to excessing under this Rule will be made jointly by the Board and the Union, who will review the listed licenses every two years. Should the parties agree that opportunities for a full program in any listed license are sufficient, it will be removed from the list, and this excessing Rule will no longer apply to holders of the license.

Rule 3-I. For purposes of excessing from a school or site, teachers serving under the new Pre-K-12 arts licenses will be grouped with teachers serving under secondary licenses in the same specific arts areas, and the least senior teacher in the specific arts area will be excessed to a vacancy if one exists at the same level within the district/superintendency. If there is no vacancy at the same level, the teacher will be offered the option to be excessed to a vacancy at a different level within the district/superintendency if one exists. If no such vacancy exists or if the option is not exercised, the teacher shall be excessed to a vacancy within the region.

Rule 4. Teachers in excess in a school unit or office under the jurisdiction of a community district must be placed in vacancies within the district to the fullest degree possible. For school units, districts, or other organizational units under the jurisdiction of the central board, teachers in excess must be placed in appropriate vacancies within the district or central office or if no such vacancy exists, within the region.

Rule 5. To minimize movement of personnel, excessed teachers shall be placed within the district/superintendency in appropriate openings or vacancies. If there are no openings or vacancies in the district/superintendency, the teacher shall be excessed from the district to a vacancy in the region.

Rule 6. The central board has the responsibility for placing teachers who are excessed from a school or office and cannot be accommodated by their own district/superintendency, if vacancies exist, within the region. Where possible, the wishes of the teacher will be taken into account in his/her placement by the central board. Should a city-wide excess condition, as defined in Section 2588 3 (a) of the Education Law, occur Section D of this Article shall apply.

Rule 7. When a teaching position in central headquarters is abolished, the occupant of that position is excessed, and he/she shall be granted the same rights for placement as a teacher who is excessed from a community district.

Rule 8. A teacher who has been excessed to another school may request an opportunity to return to the school from which he/she was excessed if within a year a vacancy should occur in that school. Such a request will have priority over any other transfer or appointment to that vacancy, and it shall be effectuated at the next

reorganization of the school to which the teacher is returning, except that should the vacancy occur within ten school days after the teacher is excessed, he/she shall be informed of the vacancy and he/she may return to the school immediately. The opportunity to return of a teacher released or excessed from a Resource Room or SETSS position is to a Resource Room or SETSS vacancy in the school from which the teacher was released or excessed.

Rule 9. A teacher under the jurisdiction of the Special Education District Superintendent who is excessed from an elementary or junior high school shall be placed within license in a vacancy under the jurisdiction of the central board located within the community school district. If no such vacancy in his/her license exists in the community school district, the teacher will be placed in an appropriate vacancy within the region. When possible the wishes of the teacher will be taken into account in his/her placement by the central board. Should a city-wide excess condition, as defined in Section 2588 3 (a) of the Education Law, occur Section D of this Article shall apply.

Rule 9-A. If an excessing situation exists in the Resource Room Program in a school or unit other than a high school, the Resource Room teacher in the school or unit with the least seniority, determined pursuant to Rule 3-D will be the first to be excessed to a Resource Room vacancy located within the boundaries of the community school district or at the option of the teacher to a position in license in the school in accordance with seniority.

If an excessing situation exists in the Resource Room Program in a high school, the Resource Room teacher in the high school with the least seniority, determined pursuant to Rule 3-D will be the first to be excessed from the high school to a High School Resource Room vacancy within the superintendency or at the option of the teacher to a position in license in the school in accordance with seniority.

Rule 9-B. Notwithstanding any other Rule except Rule 10 governing excessing, teachers serving in special education programs may remain in a school, where they are subject to excessing provided they are senior (under the applicable Rule) to another teacher in the school.

Rule 10. Teachers at all levels who have served 20 years or longer on regular appointment shall not be excessed except for those in neighboring schools who are excessed to staff a newly organized school.

Rule 11. Unless a principal denies the placement, an excessed teacher will be placed by the Board into a vacancy within his/her district/superintendency; or if such a vacancy is not available, then in a vacancy within his/her region. The Board will place the excessed teacher who is not so placed in an ATR position in the school from which he/she is excessed, or in another school in the same district or superintendency.

Rule 12. Teachers identified as being at risk of being excessed at the commencement of the following school year will be informed of this no later than June 15, or as soon as is practicable if identified as being at risk of excess after June 15. The deadlines for excessing teachers will continue to be governed by applicable law.

C. Appointment to New Program, License or Title

Teachers who are displaced by the establishment of a new program, license or title shall be given an opportunity to present their qualifications and if found qualified shall be given preference for appointment to such new program, license or title.

D. Layoff

1. If a city-wide excess condition causes a layoff of staff in any licensed position, applicable provisions of law will be followed to determine the staff members to be laid off, without fault and delinquency with the understanding that said member of staff is to be placed on a preferred list for reinstatement to his/her former position.

2. Employees on layoff who may be placed on a preferred list in another license other than the one in which they are laid off will be so placed.

E. Tipping

Beginning the Spring term in 1992 education funds in the Mayor's Safe City/Safe Streets Program will be utilized to eliminate tipping by establishing a dispute resolution program staffed by teachers.