

## **ARTICLE XII -- HIRING, ASSIGNING AND TRANSFERRING INSTRUCTIONAL PERSONNEL**

### **Section 1. Hiring and Assignment of Instructional Personnel**

The hiring of instructional personnel is a centralized function. The selection of teachers for a particular location (assignment) is the responsibility of the principal, from among those employees who have been cleared by instructional staffing as to eligibility to teach in the M-DCPS.

The parties recognize the organizational and educational value of a diverse, highly qualified instructional workforce. In that regard, M-DCPS and UTD endorse School Board Rule 6Gx13-4A-1.01.

### **Section 2. Teacher Certification**

- A. Certification and recertification of M-DCPS personnel are authorized by Florida Statutes, Chapter 1012 and State Board Rule 6A-4.
- B. The M-DCPS Certification Office shall provide verification that applicants are certifiable for such programs, as specified by the Contract.
- C. Nothing in this Section shall affect an employee's ability to receive a credential payment to which he/she would otherwise be entitled.
- D. It is the express intent of the Board and the Union that teachers shall be assigned in the fields for which they are certified. Principals, therefore, have the responsibility to ensure that teachers who are hired for a school assignment are appropriately certified for such assignment. Furthermore, it is the responsibility of the principal, in assigning or scheduling teachers, to ensure that appropriate certification is held by the teacher to be assigned or scheduled. Verification of certification held by a teacher or verification of certification in process shall be requested by the principal, when necessary, from the Office of Human Resources.
- E. Certification
  - 1. All teachers shall be appropriately certified. In the event that it is necessary to hire a teacher out-of-field, the principal shall obtain verification from Human Resources that no qualified applicants are available for the position and the principal shall submit an out-of-field waiver request for approval by the Regional Center and the Employment and Staffing Officer. The principal shall notify the teacher that he/she is required, in order to remain at the school, to earn a minimum of six college credits per year or a passing score on a qualifying subject area test toward certification in the appropriate field.
  - 2. Teachers who are offered employment to teach in the out-of-field areas must present to the principal evidence of successful completion of a minimum of six semester credit hours or equivalent course work or a passing score on a qualifying subject area test towards in-field certification each year.

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3. Failure to obtain the minimum of six college credits per year or a passing score on a qualifying subject area test toward required certification may result in termination. Extenuating circumstances may be appealed to the Employment and Staffing Officer.
- F. Out-of-field teachers needing the ESOL endorsement must complete three semester hours or 60 Master Plan Points (MPP) toward the ESOL endorsement requirements within two years of the date of initial ESOL assignment. At least three semester hours or 60 MPP toward the ESOL endorsement must be completed each calendar year, thereafter, until all requirements for the ESOL endorsement are complete.
- G. A teacher who holds a professional certificate may use college credits or inservice points completed in English for Speakers of Other Languages training in excess of six semester hours during one certificate- validity period toward renewal of the professional certificate during the subsequent validity periods.
- H. A teacher who holds a temporary certificate may use college credits or inservice points completed in English for Speakers of Other Languages training toward renewal of the teacher's first professional certificate. Such training must not have been included within the degree program, and the teacher's temporary and professional certificates must be issued for consecutive school years.
- I. Newly hired teachers who fail any section of the required general knowledge test must participate in training courses offered by the Teacher Education Center or complete coursework from an accredited college or university during the first year of employment.

### **Section 3. Appointment/Reappointment**

- A. All employees of the school system are appointed by the Board, upon the nomination of the Superintendent.
- B. Any former employee, who is subsequently reemployed by the Board without a break in service, shall have his/her resignation rescinded by the Board and shall be eligible for all benefits that would have accrued to him/her had he/she not submitted a resignation.
- C. Any teacher (except those receiving retirement pay from a State of Florida retirement program) employed by the Board after the cut-off date for receiving credit for a contract year, as provided in state law, shall be employed as a temporary instructor, except where otherwise authorized by the appropriate Regional Center Superintendent. Such temporary instructors shall receive first consideration for employment in the subsequent school year, provided they have been rated acceptable on their annual evaluation.

### **Section 4. Reemployment After Retirement**

- A. Former employees may be re-employed unless expressly prohibited by state law.
- B. Nothing in this Section constitutes a guarantee of employment.

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Approval for such employment will be made on an individual basis by the Employment and Staffing Officer for Human Resources (or designee). Such employees shall be rehired as an hourly teacher or as an annual contract teacher and shall receive the same pay and benefits as regular teachers for the term of their employment.

- C. Re-employed retirees who accrue sick leave days subsequent to retirement shall be paid at the daily rate they earned at the time they first became eligible for retirement.

### **Section 5. New Teacher Orientation**

Teachers new to M-DCPS shall participate in a five-day orientation which will immediately precede the first day of school for regular teachers. Such additional days shall be considered as part of the regular school year and shall be used in computing new teachers' daily rates of pay for the year. The parties agree to jointly develop, implement, and monitor this orientation program on an annual basis.

### **Section 6. Assignment of Surplus Personnel**

- A. In cases where employees are surplus at a work location, as a result of reduction in allocation, seniority shall be determined as follows:
1. Secondary teachers and middle school teachers teaching secondary subject areas -- by subject area taught (with the least contractual credit in the M-DCPS). For ESOL teachers, ESOL is the subject area taught. In those instances where teachers may be teaching more than one subject area, they shall, for the purposes of this Provision, be considered to be teaching the subject area of which they have the largest number of classes. For science and foreign language, surplus shall be by area of state certification.
  2. Surplus at the elementary school level and for middle school teachers teaching elementary grades shall be from the least senior in the Pre-K-Kindergarten, one through six program with the following exceptions:
    - a. Pre-K and Kindergarten teachers shall not be declared surplus if a school does not have a certified Pre-K or kindergarten teacher who can be reassigned to the Pre-K or kindergarten opening;
    - b. ESOL teachers, in pull-out or self-contained classes, shall not be declared surplus if a school does not have a certified/qualified ESOL teacher who can be reassigned to the ESOL opening; and,
    - c. Spanish-S, Spanish SL, and Basic Skills in the Home Language shall be considered as a single category for surplus purposes. However, Basic Skills in the Home Language shall not be declared surplus if a school does not have a linguistically-qualified teacher to deliver the program in the home language of the students.

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3. Teachers of gifted students shall not be declared surplus if a school does not have a certified gifted teacher who can be reassigned to the gifted opening.
  4. Exceptions to these provisions, based upon the need to provide critically-needed programs to meet the unique needs of affected students, and/or in response to emergency situations, as declared by the Superintendent, may be requested by the principal and will be reviewed by a joint M-DCPS/UTD committee. Such requests shall be made, in writing, to the Office of Human Resources.
- B. In determining seniority of an employee, all prior contracted services with the M-DCPS, regardless of work location where such service was performed, are to be credited for the purpose of determining contract status. Further, in determining seniority at a work location, if two or more employees have the same contractual status, seniority shall be determined by initial date of employment, as indicated by the date on which the Request for Personnel Action (RPA) was executed. Personnel on approved leave from a specific work location shall, for the first year of leave, have a guarantee of return to the same work location and shall be included in the roster when determining seniority. No surplus transfer shall cause a demotion. Demotion shall mean a reassignment in which the employee receives less base salary than in the assignment held previously. (This does not apply to supplements, compensation in excess of the base salary, or conversion from 11-month or 12-month employment to 10-month status.) Surplus assignment from an 11-month or 12-month position to a 10-month position may occur only after the Office of Human Resources has determined that there are no 11- or 12-month positions available in the district for which the employee is certified, and will be done in accordance with surplus provisions found in this Article.
- C. In the event that the employee is declared surplus, when the employee is absent from active duty in the school system, the employee shall be promptly notified in writing.
- D. Employees who are subject to surplus transfer shall have the right to occupy a position for which they are qualified before any new employees are assigned to the same or similar position(s).
- E. Employees declared surplus shall not be required to make application for reassignment. It shall be the obligation of the Office of Human Resources to reassign and notify all surplus employees as soon as possible. Surplus employees may make application for reassignment after being notified of surplus status. If accepted to fill a valid vacancy, said employees will be reassigned to that vacancy. Notification of such reassignment shall be expeditiously made by the Office of Human Resources.
- F. When schools are paired or grouped and grade levels are reassigned between or among schools, teachers will be reassigned within the grade levels they are presently teaching, whenever possible. If grade levels remain intact, but pupil populations only are shifted, teachers will not be reassigned. If the actions described above result in a reduction in teacher allocations for any particular school, the surplus personnel will be reassigned.

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Surplus personnel resulting from pairing or grouping of schools will be determined as follows:

1. The person or persons in that school with least contractual credit in the M-DCPS (not present school) will be declared surplus.
  2. In elementary schools and middle schools with elementary grades, the person or persons in 1. will be designated from the grade levels, i.e., Pre-K, kindergarten, or from grades one through six.
  3. In secondary schools and middle schools with secondary subject areas, the person or persons in 1. will be designated by subject areas.
- G. If the opening of a new school results in a reduction in teacher allocation for any particular school(s), the surplus personnel will be assigned to the new school, insofar as practical.
- H. Employees should not be reassigned, except as a result of reduction in allocation, or on a voluntary basis, or as described in Section 6(L) of this Article.
- I. In the event of a change in the grade configuration of a school, teachers of said school will be reassigned in the following manner:
1. Teachers of such schools will be notified of the change in grade configuration;
  2. First consideration will be given to those teachers who request a voluntary transfer to the receiving school;
  3. If there is an insufficient number of voluntary transfer requests, the procedures for the transfer of surplus personnel will be implemented, with the least senior teachers being surplus to the appropriate level or subject area; and
  4. Where there are more teachers from sending schools requesting voluntary transfers to a receiving school than there are openings in the receiving school, the principal will interview all such candidates from the sending schools (of students assigned to the receiving school) prior to determining which candidate(s) will be selected.
- J. When a new school is built to relieve overcrowding of a school, and/or as a replacement for an existing school, teachers will be reassigned in the following manner:
1. Teachers of said school will be notified of the openings at the new school and the opportunity to request voluntary transfer to schools/areas of their choice;
  2. First consideration will be given to those teachers who request a voluntary transfer to the receiving school;

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3. Where there are more teachers from sending schools requesting voluntary transfer to a school than there are openings in the school, the principal and appropriate staff will interview all such candidates from the sending schools (of students assigned to the school), prior to determining which candidate(s) will be selected; and
  4. When a surplus is to occur, the procedures for the declaring of personnel surplus will be implemented, with the least senior teachers being declared surplus in the appropriate level or subject area.
- K. Determinations of surplus personnel for employees assigned by Regional Centers to teach art, music, physical education, and exceptional student education at the elementary school level shall be governed by the following provisions:
1. The least senior person at a work location in an impacted position shall be deemed surplus;
  2. When special student education units at a work location are reduced or moved to another school, the least senior person teaching in that particular exceptionality shall be deemed surplus; and
  3. If there is a need to surplus educational specialists, placement specialists, school social workers, psychologists, or any other bargaining unit members assigned by or at the Regional Centers, the least senior person at a work location in the affected job category shall be deemed surplus.

Exceptions to these provisions, based upon the unique needs of affected students, shall be granted upon request of the principal and approval by the Regional Center Superintendent or designee. Where requested by the Union, the Regional Center Superintendent or designee shall confer with the Union Representative regarding the need for such an exception.

### L. Surplus Exemption for Curricular, Co-curricular Activity

The responsibility of the principal to maintain properly approved curricular and co-curricular activities in his/her school is acknowledged. If the declaring of surplus personnel, under the provisions of Section 6 of this Article, affects the ability of the principal to retain qualified personnel (as determined by the principal) to coach or manage these activities, he/she may request approval of the Regional Center Superintendent for certain curricular and co-curricular exemptions. Such request(s) with supporting rationale shall be in writing with a copy to the Union. Approval by the Regional Center Superintendent shall be given in writing to the requesting principal and a copy to the Union. Exemptions, pursuant to this Section, are grievable but not subject to arbitration. Curricular and co-curricular exemptions may be granted to the following positions:

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Business manager, athletic trainer, athletic director, department head, interdisciplinary team leader (middle school), debate coach, drama coach, yearbook sponsor, newspaper sponsor, band director, choral director, activities director, and head coaches of all high school sports teams.

Building stewards and Union designee, both instructional and non-instructional, shall be exempt from the application of surplus transfer criteria, except where an entire program is eliminated.

If the existing Union rules determining the number of stewards at each work location are changed, negotiations on this provision may be reopened by the Board.

### **Section 7. Voluntary/Hardship Transfers**

Recognizing the need to maintain both staff stability and opportunities for employees to transfer from one work location to another, the Board agrees to provide opportunities for voluntary/hardship transfers as follows:

- A. Newly-hired teachers will be eligible to submit a transfer application only if he/she has been employed at the same work location for a minimum of three school years.
- B. Transfer Applications -- Applications for transfers may be submitted, on forms furnished by the Board. Teachers on a performance improvement plan are not eligible for transfer except as provided for in Florida Statutes.
- C. Location Request -- Applicants shall have the opportunity to request up to six schools or up to two Regional Centers.
- D. Application Notification -- The Office of Human Resources will immediately forward approved transfer requests to the work locations requested by the applicant and will maintain a master file. A copy of the file will be provided to the bargaining agent.
- E. Teachers who have secured a voluntary transfer to another location will only be released after the end of the school year. All notices of transfer will be issued upon receipt of an approved transfer agreement from the Office of Human Resources. Approved applicants will receive their transfer to the new location effective July 1<sup>st</sup>. Newly approved applications for transfer must be received at least five days prior to the opening of school for the new year. Applications received after this deadline may only be processed for the current school year if a replacement has been hired before the first day of school for students. All other applications will become effective for the next school year.

Each vacancy to be filled by a transfer applicant shall be staffed temporarily for the remainder of the school year by an interim teacher or by a teacher from the District Teacher Reserve Pool (DTRP).

Each vacancy will be filled by the approved transferee after the end of the school year.

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Once transfers have been approved, neither the applicant nor the site administrator may rescind the assignment.

### Types of Requests

1. Hardship -- Hardship transfers will be established for those teachers who have completed at least one year of service and:
  - a. travel 20 miles or more one way, by the most direct route within Miami-Dade County limits, to the work location; or have serious medical ;and/or
  - b. have serious medical and/or other personal problems which can be substantiated by appropriate authority or acceptable written explanation.

An employee who rejects a hardship transfer to one of the locations requested will be removed from the eligible list.

2. Voluntary -- All other transfers shall be classified as voluntary and shall be given consideration for filling vacancies prior to selecting new hires.

### F. Filling Vacancies

1. Hardship transfer applicants shall be interviewed by the principal or his/her designee at the locations requested, provided the applicant is certified to fill the available vacancy.
2. Consideration for vacancies shall first be given to those employees who have submitted a request for transfer, pursuant to the other provisions of this Section, provided the applicant is qualified, eligible, and available to fill the position.
3. The principal will notify, in writing, all applicants who have been interviewed as to the disposition of the vacancy for which they were interviewed.

- G. Window Period -- During the period of May 15 through the last Friday in June, except for teachers who have been declared surplus, only transfer applicants shall be considered to fill vacancies. Exceptions will be granted to schools where no certified/qualified applicant has applied.

### H. Disapproval of Voluntary Transfer Requests

1. Voluntary transfer requests by the sending principal may only be disapproved if the teacher has overall evaluation of unacceptable or is under an official performance improvement plan of professional growth remedies in any category prescribed prior to June 1 except as provided for in Florida Statutes, Section 1012.34.
2. Reasons for disapproval of voluntary transfer requests by the receiving principal are:



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- a. teacher is not certified or does not have the endorsement for position(s) to be filled;
- b. teacher has overall evaluation of unacceptable or is under an official performance improvement plan of professional growth remedies in any category prescribed prior to June 1 except as provided for in Florida Statutes, Section 1012.34.

The final decision on transfers, when either the sending or receiving principal has recommended disapproval, shall be made by the Chief Personnel Officer or designee.

However, the parties agree that teachers possessing a Professional Services Contract who have ended the school year on a performance improvement plan shall have the right to request and receive consideration for transferring to another school.

### **Section 8. Involuntary Transfer**

The Superintendent or his/her designee may, when deemed in the best interest of the school system, involuntarily transfer unit members. Before an employee is involuntarily transferred, a conference shall be held with the Regional Center Superintendent or his/her designee or appropriate division head, except where such transfers are a result of a legal order. Employees who are involuntarily transferred, pursuant to this Section, will have the right to be accompanied by two representatives of the Union and shall be informed of this right. If the Union refuses to represent the employee, he/she has the right to be accompanied to the conference by a fellow employee.

### **Section 9. Project Employees**

Any person regularly employed by the Board, who is assigned to work with a project funded from sources other than the state and local tax sources, shall retain all the rights and privileges and accrue all rights and privileges as if he/she had remained in his/her original position. These persons employed specifically for the purposes of working in a project that is funded from sources other than state and local tax sources shall accrue all rights and privileges as any other person employed in the regular program but shall not be entitled to continue employment with the school system, if the program in which he/she works is discontinued. If such person is reassigned in the regular program, with no lapse of time, he/she shall be entitled to retain all the rights and privileges accrued under the program funded.