

Article 13

Article 13 - Seniority

Note: The numbering in this article changed in 1998 and again 2004.

Related Articles: 11.02 (C), 11.03 (C), 11.04 (H), 18.02, 18.03, 19.01, 45.04 (F), 51

Interpretation Guidelines:

Article 13.01 - (A) Definition - Regular Full-Time and Regular Part-Time Employees

Seniority is determined by the regular employee's start date with an Employer in a regular position (anniversary date) and adjusted by any hours accumulated as a result of casual employment with the same Employer (seniority date).

Article 13.01 - (B) Definition - Casual Employee

Seniority is based on the total number of hours worked by the employee with an Employer up to a maximum of the full-time equivalent per year (1879.2 hours based on a 36 hour work week). [Also see Article 11.04 (H)].

A regular employee who terminated his/her employment and is rehired by the same Employer as a casual within 30 days keeps the seniority accumulated as a regular employee for all purposes including placement on the casual call-in by seniority list.

New language added in 2006

Note: This language may be redundant where there is a merger agreement to consolidate seniority lists. Please check with your LRO.

A casual employees who is the successful applicant on a regular position is entitled to seniority credit for the total number of hours worked as a casual at all worksites of a health care employer covered by the PCA up to a maximum of the annual full time equivalent of 1879.2 hrs per year.

In other words, the casual employee may choose to "port" casual seniority hours earned at other PCA worksites to the new worksite to get seniority credit in their new regular position.

The Union is taking the position that a casual employee does not have to port their hours from other worksites or indeed all of the other worksites they worked as a casual. In some instances the employee may wish to keep their casual status and their seniority hours at the other worksites. However, **once they choose to port their casual seniority hours to the worksite where they have accepted a regular position, the casual seniority hours are reduced to zero at all worksites where the casual has used seniority hours to enhance their seniority in their new regular position at their new worksite.**

The employee is responsible for providing the Employer with written verification of their casual hours worked at other worksites.

The interpretations in this manual are provided on a *without prejudice, errors and omissions* basis to any position Unions in the Nurses' Association of Bargaining Agents may take in any arbitral proceeding or any other forum.

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Article 13.02 - Worksite Seniority

Worksite seniority can be transferred from one PCA worksite to another within a Health Authority in the following circumstances:

- When an employee is transferred from one PCA worksite to another under the provisions of Bill 29
- When a displaced employee moves to a vacancy at another PCA worksite within a dovetailed seniority list area as set out in Article 13.03
- When a displaced employee joins the casual list at another PCA worksite within a dovetailed seniority list area as set out in Article 13.03
- When a displaced employee bumps to another PCA worksite within a dovetailed seniority list area as set out in Article 13.03
- When a regular employee ports their seniority as set out in Article 51 (New in 2006)

Mergers: Agreements are being negotiated to merge the certifications within a Health Authority. For example in 2006 a merger agreement was concluded with the Vancouver Coastal Health Authority which has resulted in one seniority list for all worksites owned and operated by the VCHA. Similar discussions are underway with the Vancouver Island Health Authority and Interior Health Authority. Please contact your LRO or Regional Chair for further information.

New in 2006

Seniority is now portable for nurses who leave a regular position with one Employer covered by the PCA and are hired into a regular position with another PCA Employer within the new time limits set out in Article 51.01.

The time limits for portability were increased in 2006 bargaining to a maximum of 180 days and to 365 days where the employee is hired as a casual pending placement in a regular position. (Also see Interpretation Guidelines for Article 51)

For successful applicants on a regular position: PCA employers will now recognize seniority earned by working:

- At an affiliate (i.e. a facility that is not owned and operated by a Health Authority);
- At a worksite covered by the public service agreement; or
- With any other employer unionized with one of the Unions within the NBA (e.g. nurses covered by an agreement other than the PCA)

The employee is responsible for providing written verification of seniority hours.

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Article 13.03 - Dovetailed Seniority (new in 2002)

This comes from the LRB decision, *BCLRB No. 274/2002*, issued August 20, 2002 where the LRB granted the application under Sections 35 and 142 of the Labour Relations Act from the various bargaining associations that the newly created Health Authorities were successor Employers to the previous health regions, community health councils and community health service societies.

The purpose of the Union's application was to expand the seniority rights of employees to provide increased employment protection in circumstances involving displacement and layoff. The LRB ruled that within the following health authorities there would be dovetailed seniority list areas (DSLAs). [These are also described as Health Service Delivery Areas (HSDA)]:

- Northern Health Authority (3 areas) - Northwest, Northeast, Northern Interior
- Interior Health Authority (4 areas) - East Kootenay, Kootenay-Boundary, Okanagan, Thompson Cariboo
- Fraser Health Authority (2 areas) - Fraser Valley, Simon Fraser/South Fraser
- Vancouver Coastal Health Authority is all one area.
- Vancouver Island Health Authority (2 areas) - South Vancouver Island, Central/North Vancouver Island

Note: The LRB did not deal with the Provincial Health Services Authority (PHSA) in this decision and therefore there is no dovetailed seniority list for the PHSA.

Dovetailed Seniority would apply on the following basis:

1. The DSL applies to all worksites **owned and operated** by the five health authorities represented by the HEABC. In other words the **affiliates are not covered by a DSL**.
2. Each Health Authority was directed to create a DSL for each bargaining unit (i.e. one list for nurses) for each of the DSLAs.
3. The DSL is used **only** for the purpose of enabling displace employees to preserve employment through:
 - bumping in accordance with the Regulation for Bill 29 (and the provisions of Article 19 of the PCA),
 - filling unfilled vacancies,
 - placement on the casual call-in list at other worksites within the DSLA and
 - recall pursuant to Article 19.04 and 19.05.
4. If an employee is transferred to another worksite under Section 4 of Bill 29 (Transfers) or through exercising their displacement rights, their seniority and benefits will be transferred with them within the DSLA.

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5. The LRB decision also stated that Health Authorities, without authority -wide dovetailing (i.e. all the health Authorities except Vancouver Coastal), could choose to offer unfilled vacancies to displaced employees on an authority wide basis.

Please see interpretation guidelines under Article 19 for further information on such things as "unfilled vacancies".

A subsequent LRB decision, *BCLRB No. B8/2003*, issued January 9, 2003, clarified some further questions about the application of the DSL that included:

Can an employee of a single Employer have more than one seniority date on a seniority list?

No. An employee's name can only appear once on each DSL with seniority combined for those who hold more than one position.

For an employee who holds a regular position at one worksite and also has casual status at another worksite within the DSLA, the casual hours at the 2nd worksite need to be converted to a seniority date. This is done by dividing the casual hours accumulated by 1879.2 (full-time equivalent hours per year of service) to come up with years of seniority. Those years of seniority are then back-dated from the date of the DSL was created to come up with a seniority date. The dovetailed seniority would be the earliest of the two dates.

For example:

- Employee has regular position at worksite A with a seniority date of November 19, 1997.
- At worksite B, the employee has 12,215 hours of casual seniority
- $12,215 \text{ divided by } 1879.2 = 6.5 \text{ years of seniority.}$
- Using the date the DSL was created (in this example February 14, 2003)
- The seniority date at B would be August 14, 1996.
- Therefore, the dovetailed seniority is the earliest of these two dates or August 14, 1996.

Where applicable, a new DSL has to be created at the time of each displacement/layoff process and provided to the Steward(s) involved.

The LRB went on to say that Health Authorities are still responsible for producing a list of positions held by employees with less than 5 years seniority as required by Bill 29.

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Where a list of positions results from a single seniority list, it can physically be a separate list.

What about nurses who work for affiliates (i.e. facilities that are not owned or operated by the Health Authorities)?

New in 2006

"The following applies to nurses who work for affiliates MOA - Laid off Employees and External Health Authority vacancies. Nurses who have exhausted their options under the layoff language will have access to placement in external HA vacancies within the geographic region of the HA and, if necessary, the nurse will be provided with the appropriate orientation and education for the scope of practice required in the acute or community position."

The question of what expanded protection might be offered to nurses affected by displacement or layoff who work for affiliates and therefore do not have access to the DSL, is the subject of ongoing discussions with each of the Health Authorities. Some Health Authorities have agreed to provide some increased assistance to these nurses. **Please check with your LRO for further information.**

Additional References:

Legislation:

Bill 29 - Health and Social Services Delivery Improvement Act and Health Sector Labour Adjustment Regulation

LRB Decisions:

BCLRB No. 274/2002, issued August 20, 2002 - determined that Health Authorities are successor Employers to previous Health Regions, Community Health Councils and Community Health Service Societies.

BCLRB No. B8/2003, issued January 9, 2003 - clarified further questions about the application of dovetailed seniority lists.

Arbitration Awards:

University Hospital (Shaughnessy Site) and HEU, HSA and BCNU, August 13, 1993, (Ready) - re: transfers, rights of employees. This was dealing with the closure of Shaughnessy Hospital.

Lillooet District Hospital and BCNU, July 26, 1985, (Greyall) - re: seniority as a tie-breaker for selection. The grievor succeeded in getting the position on the basis she was the senior applicant.

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Ladysmith and District Hospital and CRNBC (RNABC), January 10, 1981, (Owen-Flood) - re: casual, dismissal, seniority. The seniority aspect of this decision was in reference to the fact that no compensation was awarded for the months the grievor was not scheduled to work as there was no call-in by seniority for casuals in the collective agreement at that time.

Council Policy:

Mergers - Last revised in 1994. BCNU Council position is that employer wide certifications are preferential because of the increased potential for employment opportunities and union security. As a result BCNU Council endorses the concept of merging certifications and dovetailing seniority lists where a labour relations purpose will be served.

Article 13.04 - Accommodation of Seniority (new in 2004)

An employee can transfer seniority from one worksite to another within a Health Authority in the following situations:

1. when an employee is transferred according to Section 4 of Bill 29;
2. when a displaced employee moves to a vacancy at another worksite (see Article 19.01 (B) (2));
3. when a displaced employee bumps into another worksite; and
4. when a displaced employee joins the casual list at another worksite.

Note: The situations described in points 2, 3, and 4 are all within a DSLA in relation to the displacement/layoff process under Article 19 in worksites that are directly owned and operated by one of the five Health Authorities referenced in *BCLRB No. 274/2002*, issued August 20, 2002

Additional References:

Legislation:

Bill 29 - [Health and Social Services Delivery Improvement Act](#)

LRB Decisions:

BCLRB No. 274/2002, issued August 20, 2002 - Health Authorities are successor Employers to previous Health Regions, Community Health Councils and Community Health Service Societies.

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Article 13.05 - Seniority - Maintained and Accumulated

Related Articles: 11.04 (H), 19.03, 19.04, 37, 38, 42.07, 44, Appendix B - Section 1 (B).

Article 13.05 (A) was new from 1998 bargaining and provides for the maintenance and accrual of seniority to employees on WCB (including casuals) and clarifies that it includes time spent on leave while in receipt of rehab benefits as well as wage loss benefits.

Casual employee's seniority is credited on return to work and based on the 12 months employment just prior to the WCB leave.

The Union takes the position that casuals are entitled to maintain their seniority when they are off work for a lengthy period of time medical reasons i.e. They are not on LTD or WCB.

Article 13.05 (G) In 1998 bargaining, the maintenance and accrual of seniority was extended to employees who were absent from work as a result of a Long Term Disability (LTD) Claim. Also see Appendix B - Section 1 (B).

Note: Employees need to be aware of the circumstances that will affect the accrual and maintenance of seniority by checking the related articles identified above.

Article 13.06 - Employment in Excluded Positions and Within Other Bargaining Units

An employee who accepts a position of a continuous nature outside the Union's bargaining unit (e.g. an excluded position) retains his/her seniority for 90 days. The employee does not accrue seniority while employed in a position of a continuous nature outside the bargaining unit.

An employee only temporarily substituting in a position outside the Union's bargaining unit, the employee continues to accumulate seniority for the length of time they are temporarily substituting in the position.

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Article 13.07 - Merged Seniority Lists

Related Articles: 11.04 (E), 18.02, 18.03, 19

This was new from 1998 bargaining and required the merger at each worksite of the seniority lists for all the members represented by the Unions in the NBA. For example, usually in acute care the merged list will be made up of HSA and BCNU members, and in worksites in the community it will be UPN and BCNU members. This may impact on such things as call-in of casuals, filling of vacancies and displacement/layoffs.

Article 13.08 - Seniority Lists

Article 13.08 (A) New from 1998 bargaining:

At the worksites where there is more than one Union representing nurses, the Employer is required to post both the merged seniority list and separate lists showing seniority specific to each union. These lists are also to be mailed to the head offices of each of the Unions in the NBA.

Stewards need to ensure that seniority lists are posted twice a year on the bulletin board and that the Employer has sent a copy to the head office of the Union.

Each employee is responsible to ensure that the information on the seniority list is correct and for following up with the Employer to correct any errors.

(viii) - Social Insurance Number (SIN)

- The SIN is the only consistently unique identifier and attaching it to the information on the seniority lists assists the Union's ability to keep accurate records about the membership. These records are used by the Union to track such things as the number of casual, regular part-time and regular full-time employees in each worksite.
- Members have to sign a waiver before their SIN can be included on the seniority list. A sample of the waiver statement can be found on the next page.
- The Social Insurance Numbers are only included on the seniority list sent to the Union office. They are not on the seniority list posted at the worksite.
- Each member's SIN is kept completely confidential and will be only used as an identifier.

The Income Tax Act requires that Social Insurance Numbers (SIN) cannot be released by an Employer without an employee's signed waiver. To authorize the Employer to release the Social Insurance Number, the approval of each employee is required.

SAMPLE

Waiver Form For The Release Of Social Insurance Number

I _____ authorize
Insert Name
 _____ to provide the
Insert Employer Identity
 Union with my Social Insurance Number, as an identifier when
 providing a copy of the Seniority List, as described in Article
 13.05 (A) of the Provincial Collective Agreement, as follows:

- (1) name
- (2) status (regular full-time, regular part-time, casual, etc.)
- (3) wage schedule classification
- (4) start date
- (5) total hours for casuals
- (6) job titles
- (7) worksite

Name: _____
Please Print

Worksite: _____
Please Print

Signature: _____

Date: _____
Please Print

Article 13.08 (C)

Since 1998, Employers are required to provide the seniority lists in an electronic format to the Union office, unless they can demonstrate they don't have that ability.