

Article 17

Article 17 - Vacancy Posting

Related Articles: 11.04 (A), 11.04 (G) (5), 18, 19.01 (B) (1), 19.04 (A), 23

Interpretation Guidelines:

Article 17.01 - Postings

New in 2006

There is a new equivalency provision. Employers cannot require a degree for Level 1 positions (i.e. DC1 and CH1 positions) and are therefore required to post all Level 1 positions without the requirement for a degree. The only exceptions are for Public Health and Preventative Nurse positions which historically have always required a BScN degree.

Where the Employer decides that a Level 2 position requires a BScN degree, Employers are required to include a statement on the posting for the Level 2 positions stating that an equivalent combination of education, training and experience will be considered. This means employers are required to give equal consideration to applicants without a degree. In other words the lack of a degree cannot be counted against the applicant.

Employers have the following options:

1. To not post if they can show the work will either not be done or can be absorbed by other employees without adding to their workload; or
2. The Employer can post a vacancy that specifies fewer hours of work than the previous position.

Employers are required to:

- First consider whether there are displaced employees, employees on recall status who should be recalled or employees who require an accommodation pursuant to the Duty to Accommodate process before posting the position [See Article 19.01 (B) (1) (b) and 19.04 (A)].
- Post notices of all vacancies at least 14 days in advance of selection for each nursing vacancy (this includes temporary appointments over 4 months (17.02) and temporary positions (17.03, 17.04).
- Include a description of the position, the department, date of commencement, a summary of the job description and required qualifications.
- Dual post all nursing vacancies for RNs and RPNs in mental health services, extended and intermediate care.

Article 17

New in 2004: Employers may utilize electronic postings and electronic employee applications in place of or in conjunction with paper postings providing:

- (a) A copy of each new electronic posting is emailed to the Steward Coordinator or designate at the worksite.
- (b) Employers ensure that employees have reasonable access to electronic posting information. i.e. Employees need to be advised where they can access electronic postings and given time while on duty to check for postings.

Stewards need to ensure:

- Where electronic postings are being used exclusively, that employees are getting access to view and apply on these postings during work time.
- That any problems with access to electronic vacancy postings or filing applications electronically are immediately addressed by the Employer.
- That both paper and electronic postings are checked at least once a week to:
 - Keep track of vacancies;
 - Ensure the job summary and qualifications match the approved job description;
 - Ensure that there is a job description for the posting; and
 - Address any concerns associated with the posting.

Where there is a dispute, the **Stewards will need to get copies of the job description referred to in the posting and investigate to determine whether the job description is accurate.**

Stewards can also call the classifications department in the BCNU office to find out whether the Union has disputed the job description described in the job posting.

Employers are required to submit all job descriptions to the Union office.

The fact that **Employers have used or referred to outdated job descriptions** on the vacancy posting has been used to award the position to the senior applicant based on the qualifications specified in the outdated job description. See Arbitration Award: *Lillooet District Hospital and BCNU, July 23, 1985 (Greyall)*.

The most common problem with job postings is where the Employer asks for excessive qualifications for a Level One job or duties are on the posting that are not in the approved job description.

Article 17

However, if the Employer can show the actual duties of the position are not accurately reflected in the old job description and the Employer can show the actual duties in the position are different, they may overcome the problems of referring to an outdated job description in the job posting. See Arbitration Award: *Lions Gate Hospital and BCNU*, April 20, 1994 (Taylor).

Problems have arisen where employer have tried to take postings down once they have been posted. There are very limited circumstances where that can be done. See Arbitration Award: *Chilliwack Hospital and BCNU*, July 23, 1985 (McPhillips) where the arbitrator ruled the Employer cannot withdraw and re-post positions without sufficient reason as this could potentially lead to an abuse in seniority rights. The arbitrator used three criteria in arriving at his decision:

1. Whether there was a vacancy;
2. Whether there was an abuse of the process (e.g. cancelled after the candidates are known);
3. Whether there was a "sound practical" reason to cancel the posting.

Additional References

Arbitration Awards:

Lillooet District Hospital and BCNU, July 23, 1985 (Greyall) - use of outdated job description on the posting led to senior applicant getting the job.

Lions Gate Hospital and BCNU, April 20, 1994 (Taylor) - Employers can overcome mistakes in using an outdated job description if they can show the job has changed and the actual duties in the job are different.

Chilliwack Hospital and BCNU, October 31, 1985 (McPhillips) - the Employer cannot withdraw and repost vacancies without sufficient reason as it could lead to an abuse of seniority rights.

Article 17

Article 17.02 Temporary Appointments and 17.03 Temporary Positions

contract interp



Article 17.03, Temporary Positions and 17.02, Temporary Appointments

Stewards frequently ask what the difference is between a Temporary Position and a Temporary Appointment. The following is a simplistic approach to determining what the differences are.

Article 17.03 (New Language)

Temporary positions (2 categories)

- ❶ Vacation relief position up to 6 months (Article 17.03 A). There can be a number of incumbents
- ❷ Project position from 4 to 12 months (Article 17.03 B). There is no incumbent. However, there must be a specific project identified and separate alternate funding available.
 - casuals accepting these positions get regular status, for the duration of the position
 - they must have a master rotation that complies with Article 25 and 26
 - they are entitled to designated days off, and overtime as regular employees
 - casuals cannot remain on the casual call-in list
 - they can access "extra shifts" according to current practise at the facility, only after the casual call-in list is exhausted
 - they cannot be cancelled for "extra shifts" without penalty or sufficient notice as per Article 25.08 (Royal Jubilee Award)
 - they are entitled to health & welfare benefits, sick time accrual and vacation accrual
 - they may take time off as vacation during the position or at the end of the position
 - when they return to casual status, sick time accrual will be held in a bank pending another temporary position or appointment or permanent position
 - they can apply for permanent jobs as a regular employee

Article 17.02 (B)

Temporary appointments

There must be one incumbent in this position who is away on leave for more than 4 months (ie. maternity, education, LTC, etc.).

- status remains casual
- they assume the master rotation of the incumbent (Article 25 and 26)
- they are not entitled to designated days off (Arbitration Award - RCH Larson) - overtime as per Article 11.04(J)
- casuals remain on the casual call-in list
- they may accept casual hours that do not conflict with the temporary appointment, schedule or rotation
- they are entitled to health & welfare benefits
- they have the right to take vacation time off, and must notify the employer at the time of taking the appointment that they want to accrue vacation instead of having it paid out every pay period
- they can take vacation during or at the end of the assignment
- they accrue sick leave from the day they take the appointment. If they don't use it, it is placed in a bank and frozen until they are hired into another temporary position or appointment or permanent position
- the employer pays the total cost of health & welfare benefits plan after four months, reimburse three of the four months cost
- they will be considered for permanent jobs after four months or with 2400 hours seniority

Article 17

(B) Temporary Project Positions

The criteria for "temporary project positions" are as follows:

1. The intent of this language is that it's designed to cover special, grant-funded positions. It is not to be used for expansion of services such as opening up new units as these are not "project" positions.
 2. These positions can only be renewed after the end date if there is mutual agreement between the Union (i.e. Provincial Head Office) and Employer.
 3. **Casuals filling** vacation relief or temporary project positions will have their status changed to regular for the duration of the position and will revert to casual status when the term of the position is over.
 4. This means that casuals will either take **earned vacation** while they are in the temporary position, or have it paid out when they revert back to casual status. **Any other earned banks** (e.g. sick and special leave) are frozen and can be accessed if a casual successfully posts into a regular position in future with the same Employer.
4. Internal regular employees will go back to their previous position when the temporary position is over.
1. External candidates will return to their pre-employment status (i.e. they are not covered by the layoff provisions).
 2. The Employer is required to give a **minimum** of 10 days notice of any change to the projected end date of the position. (This is similar to the 10 days notice required for a change in schedule)

Article 17.04 - Regular Float Positions

This language **originated in 1998 bargaining**. The purpose was to encourage Employers to develop float pools primarily to cover vacation relief and temporary increases in workload.

The Employer can also use float pools to cover work such as sick relief, and the other leaves set out in Article 11.04 (A) instead of calling in a casual employee.

The Union encourages the creation of float pools as one of the strategies to address high workloads and the excessive reliance on overtime and casual staff through the creation of regular positions. Increasing the percentage of regular positions enhances continuity of care and provides the health system with a more stable workforce.

Article 17

One of the key initiatives resulting from the Policy Discussions in 2004 was the agreement for each Health Authority to collect and analyze data on overtime and casual hours with the objective of converting these hours into regular positions wherever this could be achieved.

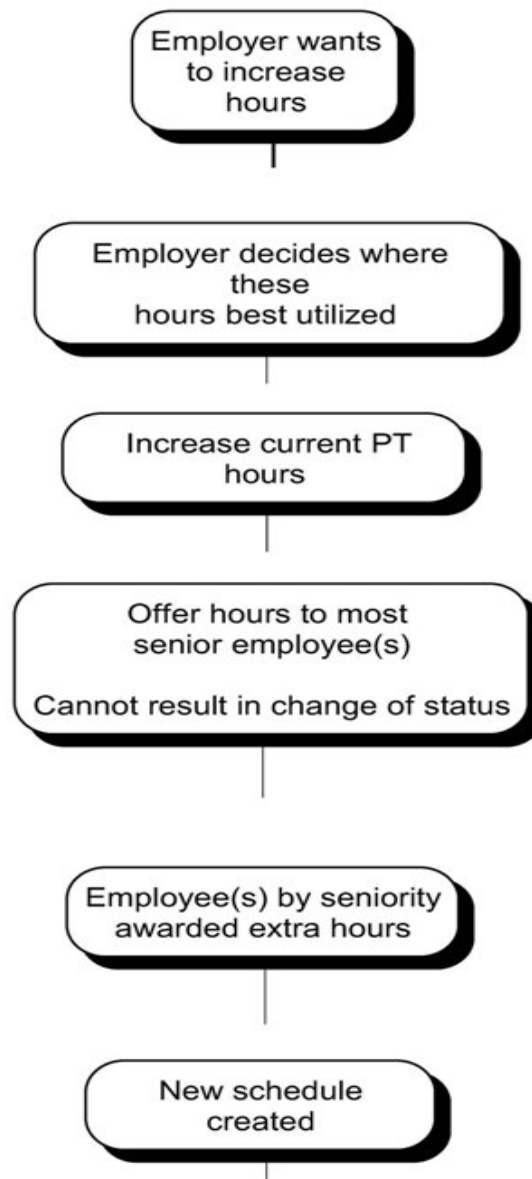
This applies to both RN and RPN positions. It does not apply to the affiliates (i.e. facilities that are not directly owned and operated by one of the Health Authorities).

Please contact your Regional Chair or your LRO for further information on the status of his Policy initiative.

Article 17

Article 17.05 - Increasing/Decreasing Regular Part-Time Employee FTE Status

Under PCA employer has the right to create either full or part time positions.
This language is designed to maximize current part time positions.



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.

Article 17

Article 17.06 - Posting of Successful Candidate

Employers are required to post the name of the successful candidate at the worksite within 7 days of making the selection.

The Employer is only required to notify applicants individually of the selection decision where the applicants have provided the Employer with a self-addressed envelope.

Additional References:

Arbitration Awards:

Lillooet District Hospital and BCNU, July 23, 1985 (Greyall) - use of outdated job description on the posting led to senior applicant getting the job.

Lions Gate Hospital and BCNU, April 20, 1994 (Taylor) - Employers can overcome mistakes in using an outdated job description if they can show the job has changed and the actual duties in the job are different.

Chilliwack Hospital and BCNU, July 23, 1985 (McPhillips) - the Employer cannot withdraw and repost vacancies without sufficient reason as it could lead to an abuse of seniority rights.

Vancouver General Hospital and BCNU, September 29, 1987 (Hope) - the period of time for a temporary appointment was exceeded by the Employer and the agreement with the employee to extend was nullified as an individual agreement.

Greater Victoria Hospital Society and BCNU, April 16, 1996 (Chertkow) - the Employer failed to provide sufficient evidence that it could make temporary assignments outside the limitations of the collective agreement.

Vancouver Health Board and BCNU, November 25, 1996 (Gordon) - this was a general application dispute filed prior to the negotiation of Article 17.03 dealing with breaches of the posting language in the filling of special project positions.

Vancouver Hospital and Health Sciences Centre and BCNU, HSA, April 10, 1997 (Ready) - Employers, in certain restricted circumstances, can establish time-limited positions, posted pursuant to the Collective Agreement and the ESLA, with employees returning to previous status and positions upon the expiration of the specific projects jobs rather than assessing employment security.