

## **ARTICLE 12—EXPLANATION, ARGUMENT AND FAQ’S**

You have no doubt heard many rumors regarding changes negotiated in Article 12. There are significant changes—but they may not be what you have heard. If we did not feel that the agreement we are presenting to you was equal to or better than what is currently in practice and in our contract, we wouldn’t have brought it to you.

Most of the changes involve **process, not rights**. They are about the way educators move from one school to another, especially those who are moved due to no fault of their own. These include teachers who are consolidated due to projected decreases in enrollment, school closures, or returning from extended leaves.

We believe the new process, which modifies a Memorandum of Understanding that has been in place for the past three years, represents improvements in several areas, no major differences in most areas, some burdens for both schools and individuals in other areas—but does not diminish the rights of members.

### **Frequently Asked Questions about Bargaining on Article 12**

#### **What is Article 12 of the OEA-OUSD contract?**

- Article 12 covers the rules for bargaining unit member transfers, assigning members to new positions, filling vacancies, and for handling consolidations (reduction in the number of bargaining unit members at a given site or in a particular department or grade level at a site).

#### **What is seniority? How does it differ from tenure?**

- **Seniority is the number of years and days of service accrued by a unit member** from the first day of probationary service in the district. Under California Ed Code, seniority is a major factor in determining the order in which a district issues layoff notices when such notices are deemed necessary. Under Article 12 of the OEA-OUSD contract, seniority is also a major factor in transfers, consolidation policy, filling vacancies, and assignment to new positions.
- **Tenure is the right to due process for teachers** in any consideration of dismissal. Under Ed Code that right is acquired by teachers after two years of service (75% of school days over that time). Prior to achieving tenure, teachers are probationary and can be dismissed without any stated reason.

#### **What improvements in Article 12 do you feel this agreement contains?**

- For many years, OEA members have been limited in their ability to voluntarily transfer due to the constraints of the transfer process and the tendency of administrators to “hide” vacancies. We believe this agreement enhances the opportunities for members, who wish to change sites, to do so.
- Many of our members expressed a desire for greater voice in all phases of their professional lives, including professional development, curriculum and who joins the faculty at their school. This agreement provides additional voice in most of these areas while preserving seniority rights for those who are displaced due to no fault of their own.
- Special Educators, Prep Teachers and others will be provided notice before they have to change assignments. Currently, they can be reassigned with no notice.

### **What are the major changes to Article 12 if this is ratified?**

(See separate handout with a summary of all changes.)

- **All bargaining unit members** reassigned after consolidation, school closure, or extended leave **must investigate schools of interest and identify up to five schools that are of interest to them. The teachers hold their seniority right as far as placement.**
- **Any member** affected by consolidation or returning from leave have the option to be reassigned as an Instructional Support Provider.

### **Do the changes in Article 12 eliminate seniority rights?**

- No. Seniority rights remain the decisive factor for all consolidated, school closure/restructuring, and extended leave teachers except for those teachers who choose to remain in the pool in Phase 4.

### **If I am consolidated, will I have to do a demonstration lesson?**

- No. Only teachers returning from extended leaves (leaves beyond a semester) may be required to do a demonstration lesson. Members of the Personnel Committee may observe any class.

### **Who decides whether I'm a "match" for a given vacancy?**

- A Personnel Committee (consisting of parents and a majority of elected teacher members at the site), the Principal,—and the displaced teacher.

### **What happens if I want a vacancy but the Personnel Committee didn't select me as a candidate?**

- You may choose to exercise your seniority rights and take the position anyway, or continue in the process and see what other vacancies may surface.

### **Under the proposed Article 12 changes, who would be on a site's personnel committee?**

- A majority of committee members would be teachers at the site, the PC would be elected by the site staff as is done for the SSC and the FC.

### **What role would the personnel committee have?**

- The PC would engage with all interested teachers and provide a list of their recommendations to the principal. PC members may observe prospective Talent Pool Teachers.
- If there is a difference in opinion, the PC and principal shall be afforded the opportunity to reach an agreement. In the absence of an agreement between the PC and the principal, there shall be a review by the superintendent and the OEA president, whose decision shall be final.

### **What happens to Talent Pool teachers not selected for any positions in the district?**

- Teachers can choose any vacant position based on their seniority through the end of Phase 3. If they elect to continue into the next phase, the teacher could choose to be placed into instructional support roles. Those remaining in Phase 5 will be placed, in order of seniority, in a position with consideration towards preference, credential, and qualification.

**Has OEA proposed any ways to address this concern?**

- OEA and OUSD agreed in 2012 to a Memorandum of Understanding (MOU) on advisory matching that was in practice through this year. Advisory matching helps teachers obtain information about the mission, vision, and practice at each site with vacancies, so they may consider which school community they wish to join. OEA worked to move the district closer to the MOU of advisory matching, through continuing the site participation. OEA also worked to continue the seniority rights already in the contract while allowing more participation from the schools.

**I thought the District had never shined this Article and we were under no obligation to negotiate these changes.**

- Both OEA and the District included Article 12 in their “sunshine” proposals in January 2014. The District made no proposals regarding Article 12 until May 27, 2014. Their proposal then called for Article 12 to be part of re-opener negotiations starting July 1, 2014. At that point, OUSD’s responses to all of our proposals on Article 12 were current contract language.
- In September of 2014, OEA, on the advice of CTA staff, responded, to the May 27, 2014 proposal by accepting it with a change in the date. It was staff’s belief that this would insulate us from having to negotiate on any subsequent District proposal on the Article. CTA legal subsequently advised us that this was not the case.
- We could have engaged in “hard” bargaining on the issue and just said “no” to any changes. However, we felt it was worth exploring changes to the Article in a non-committal environment.

*Your Bargaining Team believes what we negotiated is better than what currently exists in both the MOU that is currently in practice and in the contract, both to address the issues of hidden vacancies and the need to fill vacancies more quickly.*