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The Gang's All Here!

Thank you for attending this Maintenance session.

Please contact us with your Maintenance Craft issues.



# **When Article 12 Impacts The Maintenance Division**

**presented by:**

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NATIONAL DIRECTOR**

**&**

**REP @ LARGE IDOWU BALOGUN,**

**WITH**

**ASSISTANT DIRECTORS  
GARY KLOEPFER & GREG SEE**



# Article 12 – The Basics

- **The prevailing situation on staffing and duty assignments is effecting all Crafts**
- In Maintenance, principally movement of equipment caused by consolidation of plants; deployment of new equipment (e.g. FSS); loss of equipment that is not replaced (e.g. Sack & Parcel Sorters in BMCs & MLOCRs and MPBCS in P&Ds) and redeployment of existing equipment (SPBS, DBCS, FSM, etc.)



# Article 12 – The Basics

- **Nationally, each individual Craft Director is responsible for negotiating and interpreting Article 12 for their respective bargaining unit**



# Article 12 – The Basics

- The change in the mix of equipment can cause Article 12 to be applied to the Maintenance Craft – as we will now get into ...



# Article 12 – The Basics

- **The Maintenance Craft has its own:**
  - Seniority rules
  - Posting time frames
  - Job filling procedure
  - Training procedures
  - 204B rules



# Article 12 – The Basics

- It is critical that those at all levels of the APWU recognize that the different APWU bargaining units have different rules and procedures. The excessing or involuntary reassignment of an employee is no exception. While much may be the same, the differences that do exist are significant.



# Article 12 - The Basics

- “Excessing” = Involuntary Reassignment of employees
  - Duty Assignments (jobs) are posted, reposted, reverted, withheld; or (in some crafts) abolished.
  - Only people are “excessed” (reassigned)
  - Applicable CBA provisions include Article 12.4; 12.5; Article 30 item 18; the JCIM; various MOUs and each Craft Article (*Article 38.3.K*)



# Article 12 – The Basics

- Essentially, from the member's perspective, one of three types of excessing actions occur. These actions occur in the order as listed:
  - 1) Cross section reassignment within the same craft and installation (ref: 12.5.C.4)
  - 2) Cross craft reassignment within the same installation (ref: 12.5.C.5a)
  - 3) Reassignment to a different installation (ref: 12.5.C.5b)
    - To the same craft
    - To a different craft



# Article 12 – The Basics

- Article 12.4 is titled “Principles of Reassignments”
  - *A. A primary principle in effecting reassignments will be that dislocation and inconvenience to employees in the regular work force\* shall be kept to a minimum, consistent with the needs of the service. Reassignments will be made in accordance with this Section and the provisions of Section 5 below.*
    - \*\*\* See Article 7, includes all career, full & part-time
  - Several other principles are contained here:
    - Required meetings, National and Regional
    - Comparative work hour report when out of installation
    - Separation of casuals



# Article 12 – The Basics

- As required by 12.4, Section 5 covers the specifics of what is required when applying management's determination to excess employees
  - 12.5.A lists, in order, the possible actions which are then spelled out in Article 12.5.C
  - 12.5.B lists more principles and the requirements, such as:
    - Reemphasizing the dislocation and inconvenience principle
    - Withholding of positions (duty assignments)
    - No bumping
    - Regional notifications
    - Provision for relocation expenses
    - Detailing of employees (clerk craft only)
    - Requirement to meet qualifications
    - Seniority is controlled by Craft Article (12.5.B.9)
  - Let's not overlook 12.5.D. This requires that PTRs are a separate category and the same full-time provisions apply to them within their PTR group.



# Article 12 – The Basics

- Let's narrow our focus to the more common things for Maintenance
  - 12.5.C.8 is moot as per National Arbitration award and Maintenance does not have any employees with a flexible schedule, full or part-time
  - 12.5.C.7 is only applicable to Motor Vehicle craft
  - 12.5.C.6 is clerk craft only (like the title says). There are no details of Maintenance employees when excessing.
  - While 12.5.C 1, 2 & 3 may arise in a given situation, they are not the normal situation you will address.
  - We will concentrate on 12.5.C.4 and 12.5.C.5
    - One caveat: Both the Clerk and Maintenance Crafts have separate MOUs on REC closings which must be applied in that specific event \*\*\*



# Article 12 – The Basics

- **12.5.C.4 Cross section within the craft and installation**
  - A “section” is defined by your Local’s LMOU under Article 30, item 18.
  - In Maintenance, Article 38 requires a section be at least each individual occupational group. (Article 38.3.K)
  - Locally, it’s up to you to determine if the section is further by tour, location, principle assignment area, etc.



# Article 12 – The Basics

- What the heck is an “occupational group”?
  - The simplest generalization is to think of each ‘occ group’ as a ‘craft’ when applying various provisions of the CBA.
  - The specific definition is Article 38.2.H:  
*Occupational Group. In the Maintenance Craft, occupational group shall be determined by position designation and level.*

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# Article 12 – The Basics

**Applying Occupational Groups to all types of excessing**

- **First, forget about pay levels, pay attention to the impacted position description(s)**
- **In Maintenance, there are more than one occupational in certain pay levels**
- **For instance, MPEs and BEMs are both level 9**
- **If the excessing impacts, for example, one MPE, then the BEMs are not considered even though the same pay level**
- **Hence, the junior MPE, even if senior to the junior BEM, would be the one involuntarily reassigned**



# Article 12 – The Basics

**Which seniority is used?**

**There are 3 types of seniority defined in Article 38:**

- 1. Service seniority; all time in Maintenance regardless of installation**
- 2. Seniority for preferred assignments (see 38.2.G)**
- 3. Installation seniority; continuous time in the craft and installation**

**NOTE: For LMOU application of Holidays, Overtime and Annual Leave, the seniority to use is determined by Local negotiations (see JCIM , Article 38)**

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# Article 12 – The Basics

- Article 38 governs seniority in excessing, it is not a Local option

*38.3.K.1 -- Installation Seniority governs in identifying excess employees within an occupational group and level.*



# Quick Recap

- **We now know:**
  - What the 3 basic types of excessing are
  - Where the provisions governing excessing are found
  - Certain provisions that do not apply to Maintenance
  - What an occupational group is
  - Which seniority to use in Maintenance



# Applying Article 38 but first ...

15 minutes

Seriously ...

Class WILL resume at exactly ...



# In Maintenance, an employee may be excessed to a same or lower level position for which *qualified*

- OK, what does “qualified” mean?
- “Minimal qualifications” as used in Article 12 generally means having passed the appropriate entrance exam
- “qualified” is defined in JCIM in Article 38 :

*To be considered qualified an employee must either be eligible under the current in-craft process for the position in question or be a maintenance craft employee in the same level and occupational group as the vacancy.*



# Article 38.3.K covers the following excessing items:

- Type of seniority
- Use of occupational groups
- Saved Grade for excessing to lower level
- Requirement to maintain saved grade
- How to return to the craft when excessed within installation
- Retreat rights when excessed outside the installation
- Continuance of saved grade if return/retreat is to lower level



# Article 38.3.K.2

- **Employees excessed to lower level under Article 12 into or remaining in the Maintenance Craft shall receive saved grade. Employees receiving saved grade are required to request placement on promotion eligibility registers in their former higher level.**

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# Article 38.3.K.3

**When applying Article 12.5.C.5.a.(5), the first opportunity to return to the Maintenance Craft shall be to the first same or lower level duty assignment which remains vacant after the in-craft process for posting and filling duty assignments and for which the excessed employee is qualified.**



# Article 38.3.K.4

*When applying Article 12.5.C.5.b.(6), a Maintenance Craft employee can exercise their retreat right to any same or lower level duty assignment which remains vacant after the in-craft process for posting and filling duty assignments in their former installation and for which the excessed employee is qualified. Failure to exercise such retreat right results in the employee forfeiting future retreat rights to the occupational group and level for which the retreat was declined.*



# Article 38.3.K.5

- **If return or retreat to the craft, under 3 or 4 above, is to a lower level duty assignment, the employee shall receive saved grade.**



# Example: MPE who has been declared excess by management

- **Scenario:**

- An annex is having their SPBS removed but keeping the rest of their equipment.
- Three MPEs have a duty assignment to work there.
- The equipment is moving out of the installation. Management determines there is now one MPE too many at the annex
- Rather than allow attrition to resolve the staffing, management decides to involuntarily reassign an MPE
- The LMOU identifies sections by work location (each individual facility, station or branch)
- Current staffing also has two ETs and 4 custodians at the annex



# What to do? Which provision of Article 12 is applicable?

- First, the Local MUST get their currently authorized staffing package for all Maintenance sections
- Determination of proper staffing levels is critical to question of whether this MPE will be assigned across craft lines and/or out of the installation or stay in Maintenance \*\*\*



# Remember the “Principle”

- Dislocation and inconvenience to the employee shall be kept to the minimum!
- Outside of doing nothing, Keeping within the craft and installation is the minimum
- Next is keeping within the installation
- Last resort is reassigning out of the installation (obviously, this is hugely *‘inconvenient’* to anyone)



# Article 12.5.C.4

- The junior MPE at the annex is excessed to a different “section”. In this instance that could be:
  - As an MPE to a different work location
  - To a lower level position for which qualified either at the annex or a different work location
  - Remember, the section is first by occ group, then each work location. Hence, the annex custodians are in a different section.
- 12.5.C.4 applies regarding in-section bidding by the remaining annex MPEs and the excessed MPEs retreat right.
  - The retreat is to the identified section



# Applying Article 38

- **Article 38.3.K.2 requires putting in for the same level PERs.**
  - **Even if successfully obtains a BEM duty assignment, still retains retreat right to the annex MPE section**



# Article 12.5.C.5a

- **No within craft opportunities**
- **Regional notification required**
- **Minimum 60 days notification to the employee**



# Article 12.5.C.5

- Presently, in addition to the custodial Test 916, the general battery exam, Test 473, as been waived.
  - Our MPE is now minimally qualified for clerk or even letter carrier assignment
  - Saved Grade rule still applies, but with no level 9 jobs in clerk or carrier craft there is no prospect of losing the level 9 pay while in that craft. Saved Grade requires applying only to one's former higher level and not all levels in between.



# Article 12.5.C.5

- **Starts a new period of seniority within the Craft to which reassigned**
  - **Regardless of the reason, voluntary or involuntarily, when an employee changes crafts they start a new period of seniority**
  - **This is recovered when an excessed employee returns to the Craft (& installation) they left**



# Article 38.3.K.3 is applicable for the return to Maintenance

- The “first opportunity” is defined.
- Return is to same or lower level
- MUST return (not a “retreat right”)
- Must complete in-craft posting and job filling process first before return to craft
- Saved Grade continues (Article 38.3.K.5)



# Article 12.5.C.5b

- **Nothing at all available within the entire installation**
- **Same notification requirements**
- **Same minimum qualification requirements**
- **Same saved grade provisions**
- **NO loss of seniority if excessed outside of installation and stays in the Maintenance Craft**
- **Starts a new period of seniority within the Craft to which reassigned if other than Maintenance**



# Article 38.3.K.4

- Same actions regarding retreat rights except the employee may decline to return
  - In that event, loses retreat right but only to the specific occupational group which was declined
- Regardless of craft to which reassigned, upon retreat to former craft and installation will recover all seniority



Please be sure to contact your  
Maintenance National Business  
Agent whenever management  
proposes excessing a  
Maintenance employee.  
What your installation is doing  
may affect another installation

