



Ontario

Ministry of the Attorney
General

Ministère du Procureur
général

Court Services Division
Corporate Planning Branch

Division des services aux tribunaux
Direction de la planification interne

Ontario Public Service Employees Union

OPSEU



SEFPO

Syndicat des Employé-e-s de la Fonction Publique
de l'Ontario

MEMORANDUM

To: All Court Staff
Court Services Division

From: Ministry of the Attorney General
Ontario Public Service Employees Union
Ministry of Government Services

Date: Wednesday, August 30, 2006

Subject: Workforce Revitalization Project
Appendix 25/32 Implementation Update

In our last joint update memorandum to you back in February, we advised that we had reached an agreement on all of the outstanding issues and had signed off on a Memorandum of Settlement (MOS) pursuant to the new Memorandum of Agreement (MOA) under the Central Collective Agreement. The MOA appears as Appendix 32 in the Collective Agreement. We also noted that we had started to look at the development of a project implementation plan and process for the province.

Since that time, representatives from OPSEU and the Ministry's project team have started the implementation of the Flexible Part-time Classified model for court support staff by initiating a series of Joint Site Information Sessions (JSIS) across the province.

Following the Joint Site Information Sessions, an Ontario Shared Service representative has held Employee Induction Sessions to go through and explain the various benefits plans and package options, as well as answer employee questions and assist with completing the benefit sign up documentation.

To date, we have completed phases one to four of a five-phase roll out plan, representing thirty-five local site information sessions so far. Phase five began on August 22nd and will conclude on September 8th

While we hope these sessions have been helpful and worthwhile to those of you who have already attended your local session in terms of providing you with detailed, factual information on the new Flexible Part-Time Classified staffing model, the terms of the agreements which govern the model and your benefits entitlements / options, we have found the question and answer sessions which follow the formal presentation to be very helpful and informative to us.

We have noted questions asked at each session and have prepared the attached Question and Answer (Q. & A.) document for you, which provides answers to common and frequently asked questions, in our ongoing effort to keep you informed of this significant new employment model.

In addition to reviewing this set of Questions & Answers, as well as prior Q. & A. information packages which were previously distributed to you, you can also find additional information about Appendix 32 and the Memorandum of Settlement on the OPSEU website at: <http://www.opseu.org/>

We will continue to develop and distribute information packages to you on a regular basis as we complete phase five and move into the post implementation phase of the project.

Should you have any further questions in the interim, we encourage you to speak to your manager/supervisor, OPSEU Ministry Employee Relations Committee (MERC) members Julie Weber, Pauline Tapping, Paul Myers, Judith Marion, OPSEU Job Security Officer or your local Court Contact.

Original Signed_____

Mike Uhlmann, Project Director, Revitalized Workforce
Court Services Division

Original Signed_____

Judith Marion, OPSEU Job Security Officer

Original Signed_____

Julie Weber, OPSEU Co-Chair, MERC, Ministry of Attorney General

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Workforce Revitalization Project-Joint Information Session (JIS)

Question and Answer's

The following Q&A's have been gathered through Joint Site Information Session presentations and are grouped by categories.

Assignment to Annual Hours Categories

- Q. How was my annual hours category determined? Were seniority or training time considered?
- A. As defined in Appendix 32 of the OPSEU Collective Agreement, the following criteria is considered in determining an employees' placement into an annual hours category.
- Employees straight time hours of work during the review period (exclusive of training hours)
 - Courtroom utilization hours
 - The employers (current) operational needs
- Seniority does not apply to unclassified staff in the Ontario Public Service, so could not be used as a factor.
- Q. There are more Judges and more court sittings now at my court than during the review period. Were these sorts of changes factored into determining my category placement?
- A. Yes, as listed above, the employer's current operational needs are factored into category placement, which may include more judges, more courts, fewer courts (i.e. discontinuation of WASH courts in a site), changes to staffing levels and so forth.
- Q. I was covering a fulltime maternity leave in the office and only worked one month in court during the review period, with the rest of the time worked in the office. How will my Manager determine if I am eligible for conversion?
- A. You will not be penalized for time-spent out of court backfilling for another employee on an approved leave, or for time-limited projects. Hours worked by an employee backfilling maternity or other types of leaves will be deducted from the hours worked during the review period. So as not to disadvantage the employee, the Manager or Supervisor will then do a proration based on the actual time you worked during the review period and project it out over the 12-month period. The hours temporarily picked_up by other court staff to cover your court hours during your temporary_assignment are factored out of their conversions and a complete site reconciliation is undertaken within the total pool of available hours so as not to penalize you for taking on the assignment.
- Q. I was sick for a consecutive and substantial period of time during the review period. Will my time away be prorated so that I am not disadvantaged?

A. Yes, where individuals have a consecutive and substantial period of time away from the workplace due to illness, Managers will be doing a proration of hours to cover that time off, similar to staff who take on temporary assignments in the office.

Q. I was away for a total of 30 days over the course of the review period but they were not consecutive. Will my 30 days be prorated?

A. Where individuals have had a consecutive and substantial period of time away from the workplace due to illness or other extended approved absences, a proration of hours will be done. Single or intermittent periods of time away are not eligible for prorating.

Q. We have heard that courtroom utilization hours are taken into account for the purpose of assignment into categories of hours. Is the time spent working the courtroom performing pre and post court activities included?

A. The assignment in the annual hours category is based on multiple factors, one of which is the courtroom utilization hours. Changes in local operations related to judicial scheduling changes etc, are also used as defined in the first question above. Employee's historical hours are used as the starting point for this assignment process. These hours are taken directly from the hours individuals were paid through the CORPAY system and would include any pre and/or post court activities.

Courtroom utilization hours are only one factor used to assist in determining the total pool of hours available in a court site.

Q. How will I know what hours were used in my assignment to annual hours category?

A. A summary worksheet contained in your conversion package, which is handed out following the local Joint Information Sessions explains the calculations and rationale behind placement into a category. If you still have questions about the hours used to calculate your category, your local Manager or Supervisor would be pleased to talk with you about this following the local Joint Information Session.

Q. I understand that there are 5 categories which set out a minimum guaranteed number of hours. What happens if your eligible hours fall between two of the categories?

A. There are five categories of annual hours and staff are placed into the categories based on a rounding principle that is closest to the annual hours worked during the one-year review period of June 19, 2004 and June 20, 2005.

Q. I had the same contract in two different court locations and was working in both locations during the review period. Do my hours get counted from both locations or do I have to choose one location?

- A. If you will continue to work in both locations, then the hours from both locations will be used in the assignment to annual hours process.
- Q. I held a contract at a court location for 3 months of the review period, terminated that contract because I moved to a different city where I took on a new contract performing the same functions. Why were my hours from both locations not counted towards my assignment to annual hours category?
- A. Hours from one location where a contract has been terminated do not follow an employee as the volume and work available between locations varies. However, the time spent working at the new location during the review period does count and your hours for assignment will be prorated for the full 12-month period based on the hours you have worked at your new work location.

The Review Period

- Q. I feel that I have worked more hours in the past than I am currently working today or worked during the review period. Why was the June 2004 to June 2005 period picked for the review process rather than a calendar year or another review period?
- A. The review period does encompass a full 12-month period of time even though it does not commence in January and end in December. The reason why that review period is being used is as a direct result of the language within the Memorandum of Agreement (MOA) itself. The MOA calls for a 12-month review period immediately preceding the date of ratification of the collective agreement. The collective agreement was ratified on June 24, 2005, therefore the 1-year review commences in June 2004.
- Q. I feel that the hours in my work location have increased substantially since the review period yet I haven't seen any correlation between that increase and my assignment to annual hours category. How is that possible?
- A. The assignment into categories is based on a snapshot in time as outlined in the agreement. Historically, hours in courts have not changed significantly from year to year. While the total pool of funded hours remains relatively stable year over year in most locations, if there have been significant operational changes in a site, they are taken into consideration. If you have questions about the hours used as part of the assignment process, your local Manager or Supervisor would be more than happy to meet with you to discuss them, after your local Joint Information Session.
- Q. I was hired post ratification and I have read the agreement and understand that it only applies to those staff who were working during the review period. Does that mean I am not eligible for conversion to FPT status?
- A. Employees hired post ratification (after June 24, 2005) and prior to September 25, 2006, are captured under this initiative and the process for those conversions is outlined in the Memorandum of Settlement under paragraph 6. Those

employees must complete their training and have been working for a six-month post-training period to be eligible for conversion.

Seniority

Q. How does seniority govern the assignment into the categories of hours?

A. Seniority has never had an application for unclassified employees in the Ontario Public Service. Only after September 25, 2006, will seniority become effective for staff converted into FPT status. Given that fact, seniority could not be used as one of the factors when determining someone's assignment to their annual hours category.

Q. I was hired after ratification. Once I am eligible to convert and I fit into a 1200-hour category, is that where I will be placed or could someone with more seniority in a lower category move into the 1200-hour one?

A. Paragraph 6 of the Memorandum of Settlement sets out a number of provisions for someone hired post ratification before they can be assigned into an FPT position. You will however be eligible for conversion into an FPT position.

Q. Could someone who was hired prior to ratification and worked only during the review period end up in a higher category than someone who has worked for 10 years?

A. Placement into categories was determined using a number of criteria. As unclassified employees do not have seniority under the collective agreement, it could not be used for the assignment of hours. Individuals are placed into an annual hours category based on their hours worked during the review period, courtroom hours, and any changes to local operations.

Q. Are vacation credits accumulated based on my continuous service date?

A. Yes, vacation credits are accumulated based on the length of continuous service that an individual has. The earning of vacation credits is set out under Article 72 of the Collective Agreement.

Q. How is seniority calculated? Will it be for full years of service or based on the number of hours you worked?

A. Seniority for FPT staff will be calculated the same as it is for RPT staff in the OPS. Under Article 18 (c) of the Collective Agreement, continuous service is determined to be from January 1, 1984 or the date the employee commenced a period of unbroken service, whichever is later. Unbroken service is service that has not been interrupted by separation from the Ontario Public Service (OPS)

Ability to move to other categories

Q. I know my category assignment is based partially on my historical hours of work but I want to be able to advance through to higher categories. As a FPT

employee at a lower category, do I have the ability to work my way up into higher categories or am I stuck at my current assignment level?

A. After conversion, individuals will have the opportunity to move up categories through the provisions of Paragraph 5 (vi) of the Memorandum of Settlement.

Q. You indicated that the categories could be adjusted after one year; can your category change to one that is higher?

A. There is a one-year joint review period to see how individuals track to their minimum annual hours. After the one-year review period is completed, both parties will review the assignments to ensure that they are still applicable. Following that review, adjustments may be made if needed.

Q. If I am converted to an FPT position and following the one-year review period it is determined that my assignment to annual hours is incorrect, will I be returned to unclassified status?

A. Once you are converted to classified FPT status that remains as your employment status.

Working assigned hours

Q. How will my hours be tracked once I am converted to FPT status?

A. All of your paid hours will be input into an automated tracking system which your supervisors will be using to track your ongoing hours worked and available against your annual category.

Q. If I'm placed in a category, does that mean I cannot work any more hours than the total for the category?

A. No. Your category of hours represents the guaranteed minimum number of hours that you will work and will be paid for. There is the potential for you to be scheduled up to 10% over your category, and paid at straight time in addition to regular, bi-weekly salary. Any time worked beyond the 10% overage will be paid at the overtime rate.

Q. If I fulfill the hours of my category within ten months, does that mean I get the next two months off?

A. It is possible that in some locations, you may not be scheduled beyond your minimum number of hours because work is not available. You will however continue to get paid for the two months. It is more likely that while, you may not be called in as frequently as you were, you may still be scheduled to work within the 10% overage of your category if the hours and work are available. You may also may be requested to work overtime as operational needs dictate.

Q If I am scheduled for a one-week jury trial and the trial folds on Monday, do I go home or get assigned to another court?

A. Scheduling practices in your court location should not change dramatically from what they currently are today. The challenge will be for Managers and Supervisors to ensure that by the end of the year each FPT employee has worked their minimum amount of hours required based on their category assignment.

Q. Is it up to me to keep track of my own hours and report them to my manager?

A. No, there will be mechanism and system in place to support the tracking of hours. Supervisors will monitor hours on a monthly/quarterly basis by updating a program to assist with that process. This will ensure that FPT staff are being scheduled so that they work their guaranteed minimum number of annual hours. There is no harm however in monitoring your own hours for your own benefit.

Q. If I work more than 36.25 in one week, am I paid overtime?

A. You will receive the same bi-weekly paycheque irrespective of the number of hours you work in a day/week. The hours worked may vary from one week to the next, however your pay will remain the same. Overtime payments occur once you have worked your minimum annual hours plus the 10% overage of your category assignment. Overtime will then be earned and paid as it is incurred. This is the fundamental principle of an averaging hours of work model (Schedule A) to ensure a consistent bi-weekly income where weekly hours of work can fluctuate dramatically.

Q. If I'm with a sequestered jury, am I paid overtime?

A. You will receive the same biweekly paycheque regardless of the number of hours you work in a day/week. The hours worked may vary from one week to the next, however your pay will remain the same. You could, for example, work 10 hours in 1 week and 38 hours in another. Overtime payments occur once you have worked your minimum annual hours plus the 10% overage of your category assignment. Overtime will then be earned and paid as it is incurred as per current OPS practices.

Q. I have heard that FPT staff will be scheduled first?

A. There should not be a significant change in local scheduling practices as a result of the FPT conversion process. However, Managers and Supervisors will need to ensure that FPT staff work to the minimum annual hours for which they are being paid.

Q. Does the hours category qualify 5 or 7 days in the week?

- A. There should be no significant change in current scheduling practices. If for example you worked WASH courts on rotation during the review period and those hours counted towards your category placement because you will continue to work WASH courts, that won't change. Current practices for alternate days off for WASH also will not change.

Future eligibility

- Q. I believe I might not be eligible for conversion to FPT at this time because my historical work hours did not meet the minimum threshold. Is there a time in the future where I will become eligible for conversion?
- A. There is no language in the Collective Agreement that provides for on going conversion into the FPT model. You will however be eligible to apply to any FPT vacancies that occur in the future.

Benefits

- Q. Once I become a classified employee I will no longer be getting my 14% pay in lieu of benefits. What am I getting in return?
- A. The charts below set out all of the benefits and related entitlements that you'll receive as well as a cost benefit analysis based on a 720 category as well as a 1500 category. Generally speaking the value of your entitlements as a classified employee exceed the 14% in lieu of value.