

## **Layoffs and Preferred Lists** **For Civil Service Employees**

### **Criteria for Having Rights**

*Layoff* is a term commonly used whenever an employee is separated from State service because of economic or program reductions. However, not all employees who are laid off are entitled to rights under Sections 80 and 80-a of the Civil Service Law. Generally, to have retention, displacement and/or preferred list rights, the separation must occur because of the abolition of positions and employees must be permanent employees of New York State in:

- a competitive class position,
- a labor class position for at least one year, or
- a non-competitive class position of a non-confidential or non-policy influencing nature for at least one year.

Within a title within a layoff unit, employees meeting the above criteria have rights to be retained over provisional, probationary or temporary employees.

### **Seniority**

Where some but not all permanent employees will be retained, retention is based upon date of permanent appointment to a position in the classified service, with the least senior employee being laid off first. An additional 30 months and 60 months seniority are given to veterans and disabled veterans, respectively. A spouse domiciled with a veteran having a 100 percent service connected disability receives 60 months additional seniority.

Employees who are blind are given absolute preference in retention; they are considered to be more senior than all other employees in the same title.

Seniority is calculated based upon continuous service. Continuous service for layoff purposes is defined similarly to continuous service for purposes of seniority credits on a promotion examination; i.e., intervening periods of employment on a provisional or temporary basis or in the unclassified service do not interrupt the continuity of the service. Continuity is interrupted by a break in service of over one year. However, no previously gained credit is lost for absences of under three years. Any period of absence in excess of three years is deducted pro rata from seniority credit earned before the absence.

### **Layoff Units**

Layoffs in the State are made among employees in the department where the abolition or reduction occurs. However, the President of the Civil Service Commission may, by regulation, designate separate units for suspension or demotion. These include any State hospital, institution or facility, or any division of any State department or agency, or specified hospitals, institutions and facilities of a single State department or agency within a particular geographic area.

### **"Bumping" and "Retreating"**

Competitive class employees may often have an opportunity to displace other less senior employees in the layoff unit through either bumping or retreat. Exactly what may occur in the case of bumping varies with each situation, but generally, the employee will displace the least senior employee, provided he/she has greater retention standing, in the next existing lower occupied title in direct line of promotion. Non-competitive and labor class employees do not bump since there are no direct promotion lines in these classes. If no lower level occupied positions in direct line of promotion exist in the layoff unit, competitive class employees may have retreat rights. Non-competitive and labor class employees also have retreat rights. Retreat means that the employee, provided he/she has greater retention standing, may displace the least senior individual in the layoff unit who occupies the last lower level title that the employee held on a permanent basis.

### **Preferred Lists**

Laid off and demoted employees are certified to fill positions from a preferred list. On any particular preferred list certification, employees are ranked according to their preferred list adjusted seniority. Inclusion on the preferred list certification depends on several criteria:

- whether the title to be filled is the same title, a direct line title or a comparable title;
- whether the position to be filled is in the employee's former layoff unit or another layoff unit;
- whether the employee was a probationer or had completed probation at the time of layoff;
- whether the position is permanent or temporary and whether the employee has indicated a willingness to take a temporary position;
- the geographic location of the job and whether the employee has indicated a willingness to work in that county;
- the previous declinations and reinstatements of each employee.

Given these criteria, it is apparent that an individual's rank may vary widely on different certifications

### **Preferred List Reinstatements**

Appointing officers must either reinstate the number one eligible willing to accept appointment or leave the position vacant. There is no probationary period upon reinstatement from a preferred list, unless the laid off employee was on probation at the time of layoff. Such employees must complete their probationary periods when reinstated. However, a preferred list eligible reinstated to a traineeship position would be on probation for the length of the traineeship.

### **Term of Eligibility**

An individual's name may remain on a preferred list for a title for up to four years, unless permanently appointed to a position at the same salary grade. Eligibles who decline a job offer may retain some eligibility or be removed from the list, depending upon their salary

grade and county of layoff. It is also possible to be allowed to be inactive on the preferred list and reactivated at a future date for good cause. Eligibles reinstated at a lower salary grade retain their preferred list eligibility for higher grade positions.

Preferred list eligibles are considered permanent employees for purposes of qualifying for promotion examinations. However, time on the preferred list does not count toward the amount of service required and does not interrupt continuous service for seniority if an eligible is reinstated from the list.

### **Reemployment Rosters**

Reemployment rosters are intended to provide additional employment opportunities to laid off employees. Competitive class employees are placed on reemployment rosters for selected titles other than preferred list titles based on the similarity of duties, minimum qualifications and examinations. Non-competitive and labor class employees are placed on reemployment rosters for titles for which they are qualified for appointment. Former employees on reemployment rosters do not appear in rank order; that is, any individual on the roster may be appointed. Upon appointment, the employee must serve an appropriate probationary period. Reemployment rosters consisting of former permanent employees must be used to fill positions for which no preferred lists exist before placement rosters, eligible lists or other methods of appointment may be used.