

New York State
Department of Civil Service

Committed to Innovation, Quality and Excellence

**Information for Municipal Employees
Affected by Layoff**

Opportunities at work.



Andrew M. Cuomo
Governor

WHO HAS RIGHTS IN LAYOFF SITUATIONS

This booklet was written primarily for employees impacted by a reduction in force who have retention and preferred list rights under Sections 80 and 81 of the Civil Service Law. Employees who have these rights include:

- ❖ permanent competitive class employees, including probationers and contingent permanent employees

Employees who do not have retention or preferred list rights include:

- ❖ provisional and temporary employees
- ❖ employees in exempt and unclassified service positions
- ❖ non-competitive and labor class employees.

CONCEPTS AND DEFINITIONS YOU NEED TO KNOW

Layoff Units – Layoffs are always confined to layoff units, and the titles and positions within these units. A layoff unit means each department of a county, city, town, village, each school district, and each special district. Authorities and

community colleges are generally deemed separate civil divisions. The municipal civil service agency is responsible for defining the layoff unit. It is within the defined layoff unit that employees are suspended or demoted, exercise their rights to be retained, and within which they “bump” or retreat.

Seniority – For purposes of layoff, seniority is defined as the date of original permanent appointment in the classified service and continuous service since that date. However, wartime veterans get two and one-half years of additional seniority and wartime **disabled** veterans get five years of additional seniority. Legally-blind employees must be considered more senior than any other employee in their same title. Employees who qualify as head-of-household and whose spouse is a disabled veteran with a 100% service-connected disability may be eligible for five years of additional seniority.

Continuous Service – For purposes of determining seniority dates, employment in public service must be continuous. Service is considered continuous unless it is interrupted by a period of one year or more when the employee is out of service with the municipality. Employees who are on leave and on preferred lists are considered to be in continuous service for layoff purposes.

Displacement – Although agencies can reassign employees at any time, during abolition of position situations, more senior employees often must displace junior employees in same title positions in other locations in the same layoff unit.

Permanent employees who refuse to displace other employees waive their right to bump and retreat to lower level positions. Consequently, they are separated from service. However, the municipal civil service agency must place the names of such employees on preferred lists.

Vertical Bumping – This occurs when an employee takes the position of the least senior employee in the next lower level title in the direct line of promotion in the layoff unit.

Retreat – This happens when there is no opportunity to bump because there is no lower level occupied position in direct line of promotion. In this case, the retreating employee takes the position, in the same layoff unit, of the least senior employee in the lower level title last held permanently by the retreating employee.

The rules for vertical bumping and retreat are complex. You should discuss your opportunities for bumping and retreat with your municipal civil service agency.

THE LAYOFF PROCESS

Layoffs result because positions are abolished. The decision about which positions to abolish (the specific titles and how many positions in each title) is usually made by the management of the civil division. Once this decision is made, Civil Service Law and Rules provide an orderly method for determining who will be affected. In a sense, at this point, each employee's own public employment history (service dates, veterans' status, titles held, etc.) becomes the controlling factor.

For example, provisional and temporary employees must be separated before any permanent employees who are serving in that title in the layoff unit. Provisional and temporary employees have no rights to a preferred list. Permanent competitive employees, on the other hand, may have rights to be reassigned to other jobs, to "bump" other employees, and to have their names placed on a preferred list. Permanent employees who are on probation must be laid off before permanent employees in the same title who have completed their probationary period in the same title.

To ensure your rights and increase your opportunities for being rehired, you should be aware of the following:

1. The municipal civil service agency has a record of your official employment history. You should ask to review your record to ensure it is accurate and complete.
2. You should verify important personnel information such as title, seniority date, probationary status, veterans' status and mailing address.
3. If your title, seniority date, or veterans' status are incorrect, you should immediately notify the municipal civil service agency.
4. If you are on probation, you must be laid off before employees in the same title who have completed their probation. As a probationer, you do have rights to return to a hold item if you were promoted, but you do not have rights to bump or retreat. If you do not have a hold item, you may bump or retreat only if all employees in your title who have completed their probation have been provided with their rights first.
5. An employee with bumping or retreat rights has the option to displace or be laid off. An employee who refuses to bump must be laid off. Their name is placed on a preferred list for the layoff title.

ESTABLISHING PREFERRED LISTS

As soon as the municipal civil service agency receives notification of your layoff, your name will be placed on a preferred list for certification to other jobs in the same title in the civil division from which your layoff occurred. As of the date of layoff, your name is added to the preferred list. You have a maximum of four years of eligibility on the preferred list from which to be reinstated.

In addition to the title of layoff, laid-off employees are eligible for appointment to lower level titles in direct promotion lines and for other appropriate titles in their occupational field. The determination of which other titles are appropriate is made by the municipal civil service agency based on a high degree of similarity of duties and responsibilities, minimum qualifications, and examination requirements. Individual qualifications or employment history cannot be considered in making this determination. Therefore, a preferred list will consist of the names of all employees laid off from the same title, the names of employees laid off from higher grade titles in direct line of promotion, and the names of employees laid off from other titles with similar duties that are deemed comparable by the municipal civil service agency.

Rank on a preferred list is determined by the category the employee is in for the department, civil division, and title for which the list is produced:

1. Title-for-title category – Employees laid off from a title are certified first to fill that title.
2. Direct-line category – Employees laid off from higher level titles in a direct promotion line are certified second.
3. Appropriate title category – Employees laid off from similar (comparable) titles in the same occupational field are certified third.

Within each of these categories, employees laid off from the department where the job is being filled are certified before employees laid off from some other department in the same civil division. Employees who have completed their probation are certified before those who were on probation when they were laid off, and employees who are otherwise the same in terms of these rules are ranked by seniority based on years of continuous service.

Appointments from a preferred list are considered reinstatements and no probationary period is required. However, employees who were serving probation when they were laid off must complete probation upon reinstatement.

The declination policies listed below apply to declinations of job offers from preferred lists.

1. If you declined an offer of a permanent full-time job:
 - At your former salary grade in your civil division of layoff your name will be removed from the preferred list for all titles. Also, you will no longer be eligible to take promotion examinations based on your preferred list status.
 - At a lower salary grade in your civil division of layoff your name will be removed from the preferred list for all titles at that grade and below.
2. If you decline an appointment to a temporary job, only your eligibility for temporary jobs will be affected. Your eligibility for permanent jobs will not be affected.
3. If you decline an appointment to a contingent-permanent position, your eligibility for permanent positions will not be affected.
4. If you decline an appointment to a less than full-time job, only your eligibility for less than full-time jobs will be affected. Your eligibility for full-time jobs will not be affected.

5. An employee placed on a preferred list may voluntarily remove his or her name from a preferred list by application to the appropriate municipal civil service agency.

Employees on preferred lists should advise the municipal civil service agency of any change of address so that they are sure to receive canvass letters as jobs are created or vacancies filled.

OTHER METHODS OF REEMPLOYMENT

In addition to any opportunities you may be offered through a preferred list, you can increase your opportunities through:

- **The examination process** – If you are already on open-competitive lists and/or promotion lists, you should consider reactivating your name for any locations you may have declined. If you are on a preferred list, you can still compete in promotion examinations if you had sufficient service to qualify prior to layoff. To find out about open-competitive exams, you should regularly contact your municipal civil service agency.
- **Transfer** – If you are on a preferred list, you are eligible to transfer to other positions for which you would have been eligible for transfer had you not been laid off.

- **Reinstatements** – You may be reinstated to any title you have previously held on a permanent basis provided your service in that title was satisfactory. Additionally, you may be reinstated to a position in a different civil division if you were eligible for transfer to that position. If you have been removed from a preferred list due to expiration of eligibility or due to declinations, you are still eligible for reinstatement to your layoff title at the option of the civil division. You should contact agencies directly about reinstatement opportunities.
- **Contacting Departments and Agencies** – You may contact any agency where you are interested in working for consideration for provisional or temporary jobs, or for non-competitive, labor or exempt class positions. A well thought-out and neatly typed resume with a cover letter explaining your situation is a good first step.



PROMOTION RIGHTS

As long as you are on a preferred list but not permanently reemployed in a position, your name remains on any promotion lists you were on prior to layoff. You are also eligible to compete in promotion examinations if you had sufficient

service in a qualifying title prior to layoff. Time on the preferred list does not count as service in a qualifying title.

If you are permanently appointed in another department of the civil division and you are on interdepartmental promotion lists, your name can be placed on your new agency's departmental portion of the list in score order. You must request this change by writing to the municipal civil service agency that has jurisdiction over your position.



FOR FURTHER INFORMATION

If you have questions on the details of your layoff, reemployment rights, or preferred lists, you should contact the municipal civil service agency that has jurisdiction over your position.

It is the policy of the New York State Department of Civil Service to provide reasonable accommodation to ensure effective communication of information to individuals with disabilities. If you need an auxiliary aid or service to make this information available to you, please contact the New York State Department of Civil Service Public Information Office at (518) 457-9375.

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