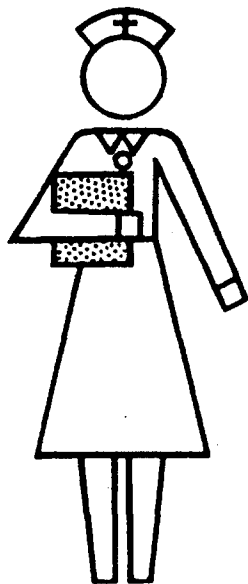
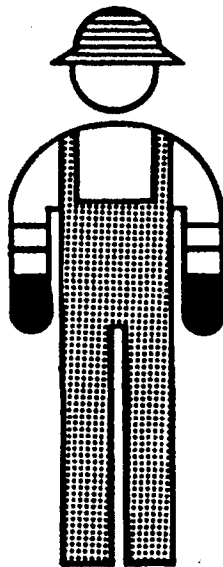
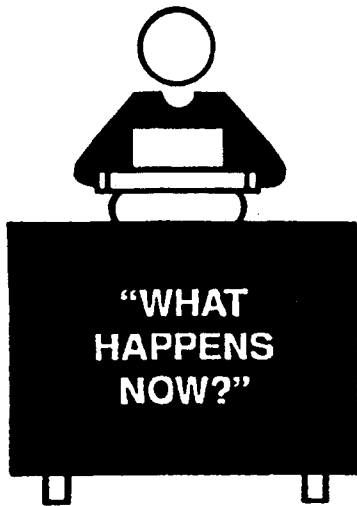


LAYOFF INFORMATION BOOKLET



**INFORMATION
ON LAYOFFS
FOR
LOCAL
GOVERNMENT
EMPLOYEES**

JANUARY 2002



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INTRODUCTION

This booklet is designed to provide guidance to Local Government employees who face being laid off. It outlines the retention rights of PERMANENT COMPETITIVE CLASS EMPLOYEES in municipal service as provided by Section 80 of the Civil Service Law.

PERMANENT NONCOMPETITIVE AND LABOR CLASS EMPLOYEES SHOULD CONSULT THEIR LOCAL CIVIL SERVICE RULES AND INDIVIDUAL CONTRACT TO DETERMINE WHAT RIGHTS THEY MAY HAVE.

Although the layoff procedure described here applies only to competitive class employees, this booklet contains information on unemployment insurance, NYS Department of Labor Job Service Office locations, interview techniques and maintenance of CSEA dues and insurance which should be useful to all employees regardless of their jurisdictional classification.

* * * *

The abolition of positions in the competitive class does not automatically mean the termination from employment of the incumbents of those particular positions. The law provides a system of displacement.

In the event of a layoff, the first factor to consider is the layoff unit. (See Section I for details).

The second factor to examine is the seniority of all persons in the layoff unit in the titles to be abolished. Seniority is determined from the date of the first permanent appointment in the classified service. The key words in the definition are permanent and classified service (See Section II for more information).

Introduction con't.

Once seniority rosters are established for the specific titles of positions to be abolished, the actual persons to be laid off can be determined. Section III describes the competitive class employee's rights to reassignment, vertical bumping, and retreat.

The preferred list must be used to fill vacancies before any other list is used. Section IV describes some of the rights of employees on preferred lists.

Being number one on a preferred list does not automatically guarantee you a job. You must go out on interviews and convince prospective employers that you are the right person for the job. Section V has some helpful tips.

Since all payroll deductions cease when an employee is laid off, you need to make arrangements for direct payment for CSEA dues and CSEA insurances. See Section VI for details on how to receive a gratuitous CSEA membership for one (1) year and who to contact to make direct payments for CSEA insurances.

This booklet touches on the more important aspects of the Layoff Procedure. Consultation on specific layoff questions is available by telephone contact with the appropriate CSEA office listed in Section VIII.

Section IX provides some very general information on Unemployment Insurance. Also listed in this section is a directory of addresses and phone numbers of New York State Unemployment Insurance offices and Job Service offices.

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SECTION I: LAYOFF UNITS

Layoff procedures, as incorporated in the Civil Service Law and Rules, apply on the basis of layoff units. You should consult your local Civil Service Rules and CSEA contract to determine the layoff unit in which your present position exists.

The layoff unit may consist of:

1. A department of government
2. A school district
3. A community college
4. A special district
5. An entire unit of government (county, city, town or village). This is extremely rare.

Divisions, bureaus, and sections of a department DO NOT constitute layoff units. Individual schools and administrative sections of a school district or community college are NOT layoff units.

FOR EXAMPLE:

A County Clerk Department may consist of the following subdivisions:

- a. motor vehicle
- b. court
- c. property records
- d. microfilming
- e. naturalization and passport

If two Senior Clerk positions were to be abolished – and the position of Senior Clerk exists in each subdivision – THEN retention rights would have to be established among all employees in the title of Senior Clerk in the entire department.

SECTION II: RETENTION RIGHTS (SENIORITY)

Retention rights (seniority) are measured from the date of original permanent appointment in the classified service. There are several reasons why an employee's seniority date would be adjusted. Briefly, they are as follows:

1. **Veteran** – An individual afforded status as a veteran must have served in the armed forces in time of war, and received an honorable discharge or release under honorable circumstances. The date of original permanent appointment is adjusted to 30 months earlier.
2. **Disabled veteran** - In addition to the above, to qualify as a disabled veteran an individual must be certified by the Veteran's Administration as entitled to receive disability payments for a disability incurred in time of war and the disability must be rated at 10 per centum or more. The date of original permanent appointment is adjusted to 60 months earlier.
3. **Certain spouses of disabled veterans** – The head of household spouse of a disabled veteran with a 100% service-connected disability has the date of original permanent appointment adjusted to 60 months earlier.

A blind individual must be retained over all non-blind individuals having the same appointment status in the same title. That is to say, all permanent non-blind individuals would have to be laid off before a permanent blind individual in the same title. However, permanent non-blind individuals would not be laid off before a probationary, temporary, or provisional blind individual.

Section II con't.

Temporary and provisional employees holding positions in the same title as abolished positions, must be let go before any permanent employee is suspended from such positions in that layoff unit. It is important to note that the layoffs will only affect the layoff unit where positions have been abolished.

Although there may be provisional or temporary employees serving in the same title in another department, these employees will retain their position while permanent employees in the layoff unit will be dropped. Temporary and provisional employees in other layoff units must be terminated once a preferred list is certified however.

Probationary employees occupying such positions in the same title must also be suspended before any permanent employees in the unit in that title who has completed his or her probationary period. Probationary employees do, however, have superior retention rights to those of temporary and provisional employees. The law provides that the order of suspension among probationary employees shall follow the same principles as that among permanent employees.

A break in service may affect an employee's seniority date:

- A. Permanent employees who were separated and permanently reemployed in the classified service up to one year later are deemed to have continuous service and retain their original seniority date.
- B. An individual terminated because of a disability resulting from occupational injury or disease as defined in the Workers' Compensation Law who is reinstated or reappointed is deemed to have continuous service.
- C. Temporary or provisional service, which precedes the original permanent appointment, does not count. However, if a permanent employee resigns or otherwise leaves classified service and is reemployed on a temporary

Section II con't.

or provisional basis within one year and then, without a further break in service, is reemployed on a permanent basis, there is no break in continuous service. This applies even when the subsequent permanent appointment occurs more than one year after separation.

- D. Employees transferred upon transfer of functions from another governmental jurisdiction pursuant to Section 70.2 of the Civil Service Law have continuous service beginning with their original permanent appointment date in the classified service in the other governmental jurisdiction.
- E. The typical rule is that a simple transfer will not be considered a break in service.
- F. Employees covered into a classified service position pursuant to Civil Service Law Section 45 will have a seniority date which is the same date as the cover-in. To break ties in this group use the date of original appointment prior to cover-in.
- G. Employees who have been laid off and had their names placed on preferred lists shall not be considered to have a break in service for the time spent on a preferred list.

NOTE: AMONG PERSONS APPOINTED ON THE SAME DAY, RETENTION RANK IS DETERMINED BY THEIR RANK ON THE ELIGIBLE LIST FROM WHICH THEIR COMPETITIVE CLASS APPOINTMENT OCCURRED.

SECTION III: THE LAYOFF PROCESS

Once seniority rosters are established for the specific titles of positions to be abolished, the actual persons to be laid off can be determined. When positions in a title in the competitive class are abolished, only employees in the layoff unit within which the abolition occurs are considered for retention and suspension. Employees in other titles, in the same title in other jurisdictional classes, or in the same title in other layoff units are not considered. Suspension of employees in affected titles in the layoff unit must occur in the following order:

1. Temporary
2. Provisional Employees
3. Contingent Permanent Employees
4. Probationary Employees
5. Permanent Nonprobationary Employees

(Restoration to their permanent status should be provided for employees occupying positions on a nonpermanent basis.)

“Bumping” or “displacements” are terms used by many employees any time one person takes a job being held by another. In actuality, this can happen in three ways:

- A. **Layoff Reassignment** – Horizontally displacing the least senior incumbent in the same title within the same unit.
- B. **Vertical Displacement** – Displacing the least senior incumbent in the title that is in the next lower salary grade within direct line of promotion within the same layoff unit.
- C. **Retreat** – Displacing the least senior employee in a lower level title last held permanently by the retreating employee.

Section III con't.

A. REASSIGNMENT

If you are notified that your position has been abolished, you may be offered a reassignment (also referred to as horizontal displacement) into another position in the same title and salary grade within your layoff unit. If offered a reassignment, you will be asked to indicate your acceptance or rejection of such reassignment quickly so that a determination can be made regarding what specific employees are to be laid off.

PERMANENT EMPLOYEES WHO REFUSE A REASSIGNMENT AND ARE CONSEQUENTLY SEPARATED FROM SERVICE ARE NOT CONSIDERED TO BE "LAID-OFF" UNDER THE LAW AND THEREFORE CANNOT BUMP OR RETREAT TO LOWER LEVEL POSITIONS. SUCH EMPLOYEES SHOULD CHECK THEIR LOCAL CIVIL SERVICE RULES AND CSEA CONTRACT TO DETERMINE WHAT, IF ANY PREFERRED LIST RIGHTS THEY MAY HAVE.

One should keep in mind that refusal of a similar salaried position in the same geographical area may negatively affect his or her unemployment insurance eligibility.

Should you accept a permanent reassignment (which may involve relocation of your place of employment) to a title and salary grade identical to the one you now hold, your name WILL NOT be placed on a preferred list and you will continue in your employment. Should you accept reassignment to a lower level position (which may involve relocation of your place of employment) you will continue employment in the lower level position and your name will be placed on a preferred list for the title that you held immediately prior to reassignment.

Section III con't.

B. VERTICAL BUMPING

For permanent competitive class employees, Section 80 of the Civil Service Law provides for “vertical bumping”. (It should be understood that a permanent competitive class employee who accepts a reassignment, or who rejects a reassignment with the result that his or her name is placed on a preferred list, loses his or her “vertical bumping” rights under Section 80.)

When a position is abolished in a specific title, the employee with the least retention rights holding that title within the layoff unit is suspended or displaced and has an opportunity to displace the employee with the least retention rights in the next lower occupied title in direct line of promotion in the same layoff unit, providing that he or she has greater retention rights than the employee with the least retention rights in the lower occupied title in direct line of promotion.

Section III con't.

EXAMPLE:

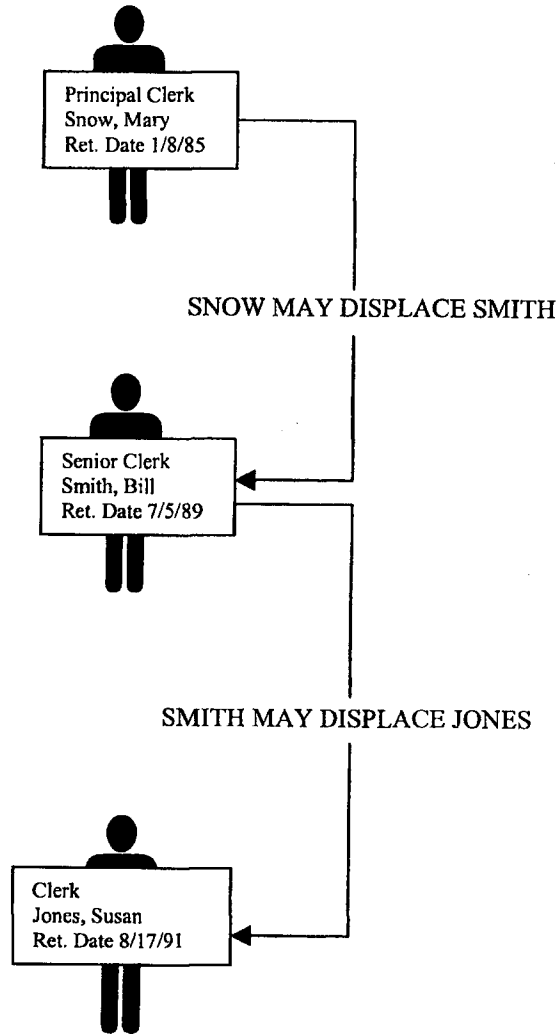
Mary Snow receives notification (layoff notice) that her Principal Clerk position is being abolished

Mary Snow is laid off from her Principal Clerk position

Mary Snow's name goes on the Principal Clerk Preferred List

Bill Smith's name goes on the Senior Clerk Preferred List

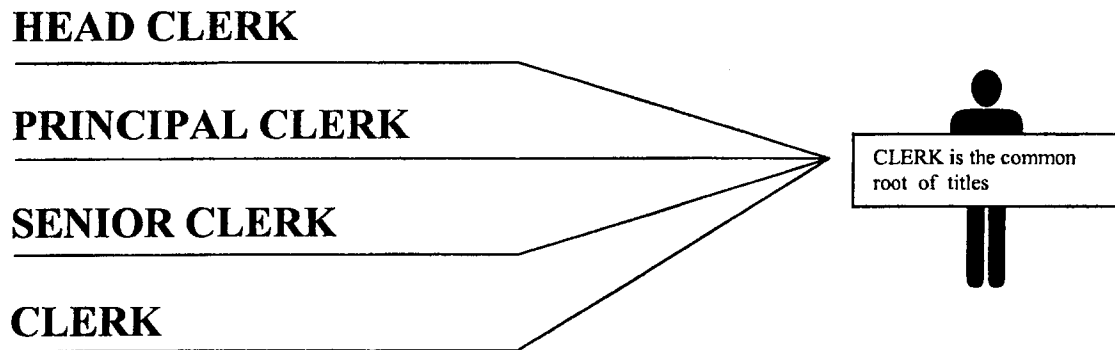
Susan Jones's name goes on the Clerk Preferred List and is laid off



If an employee refuses to displace (bump) a junior incumbent, he or she must be laid off and have his or her name placed on a preferred list.

DIRECT LINE OF PROMOTION

“Direct line of promotion” is a narrow concept. Titles in direct line are those with a common root:

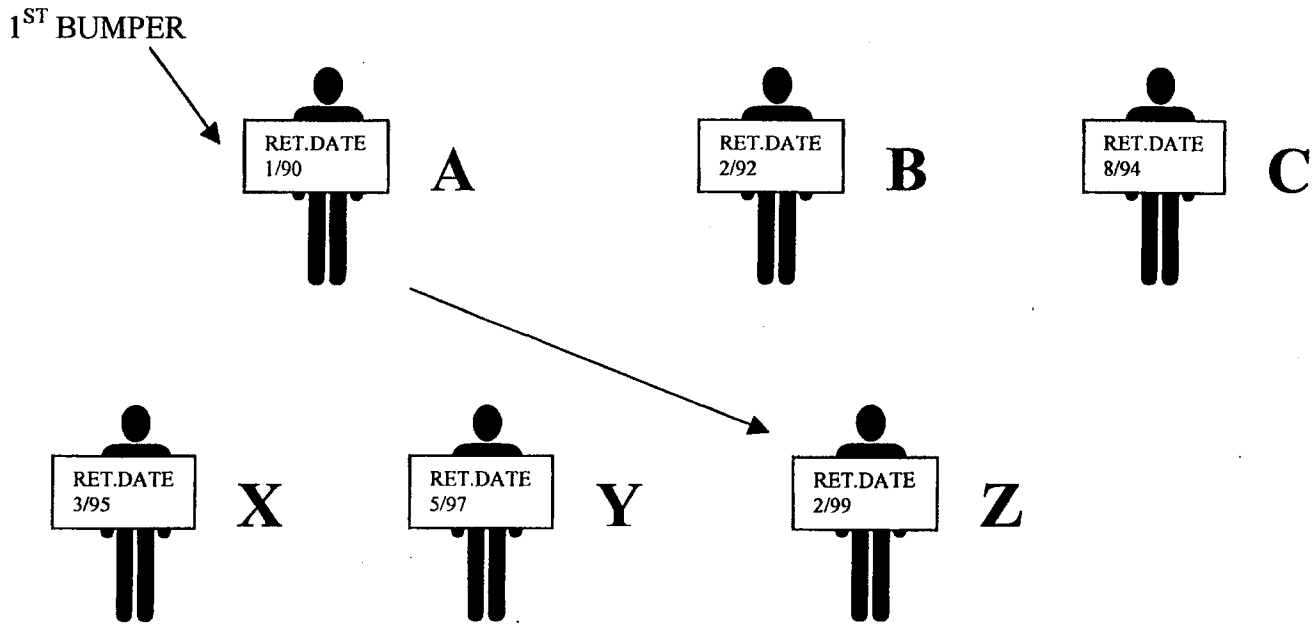


In the above example, Senior Account Clerk **would not** be in a direct line of promotion.

ORDER OF BUMPING

When more than one occupied position in a title is abolished, the person with the most retention rights must be offered the opportunity to bump first.

EXAMPLE:

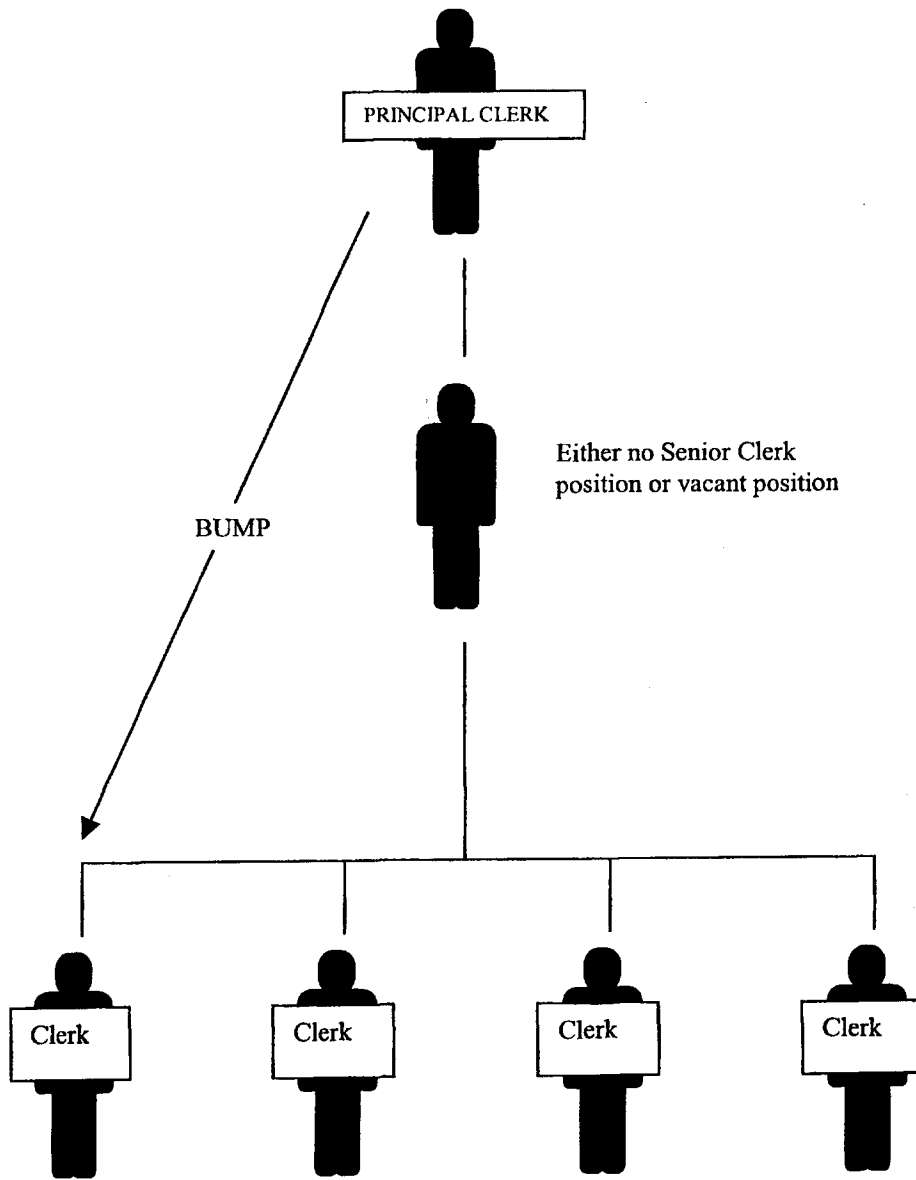


In the above example, A has the first opportunity to bump; B bumps second; C bumps third.

NEXT LOWER OCCUPIED TITLE

In the example below, vertical bumping to the next lower occupied title forces displacement of the Clerk with the least retention right. The same bumping pattern would occur if a Senior Clerk position existed but was vacant.

EXAMPLE:



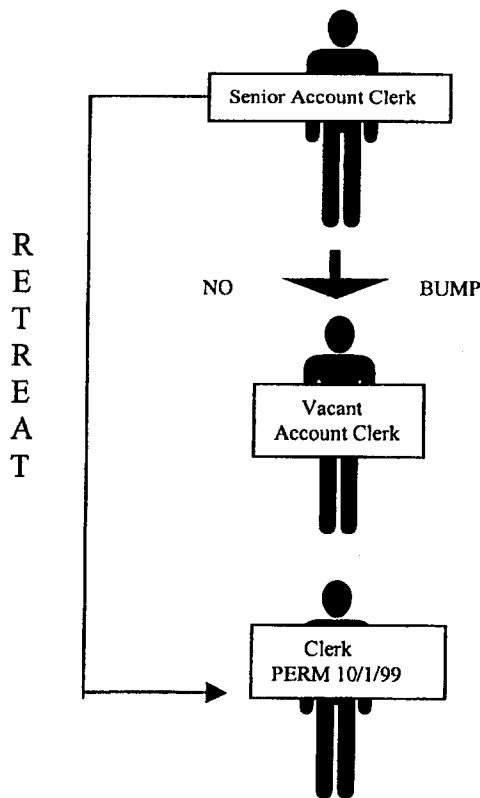
(least retention right)

C. RETREAT

Permanent competitive class employees who are suspended or displaced from a position, where there is no lower level occupied position in direct line of promotion, may "retreat" to a position in which he or she last served on a permanent basis prior to service in the title from which he or she is being suspended or displaced. "Retreat" may only occur where the position in the title formerly held, by the person being suspended or displaced, is (1) occupied; (2) in the competitive class; (3) in the same layoff unit; (4) at a lower salary grade.

Also, the service of the displacing incumbent while holding the title to which he or she now desires to retreat must have been satisfactory. Another condition which must be met is the fact that the employee wishing to "retreat" to a title he or she formerly held must have more seniority than the employee presently occupying that title.

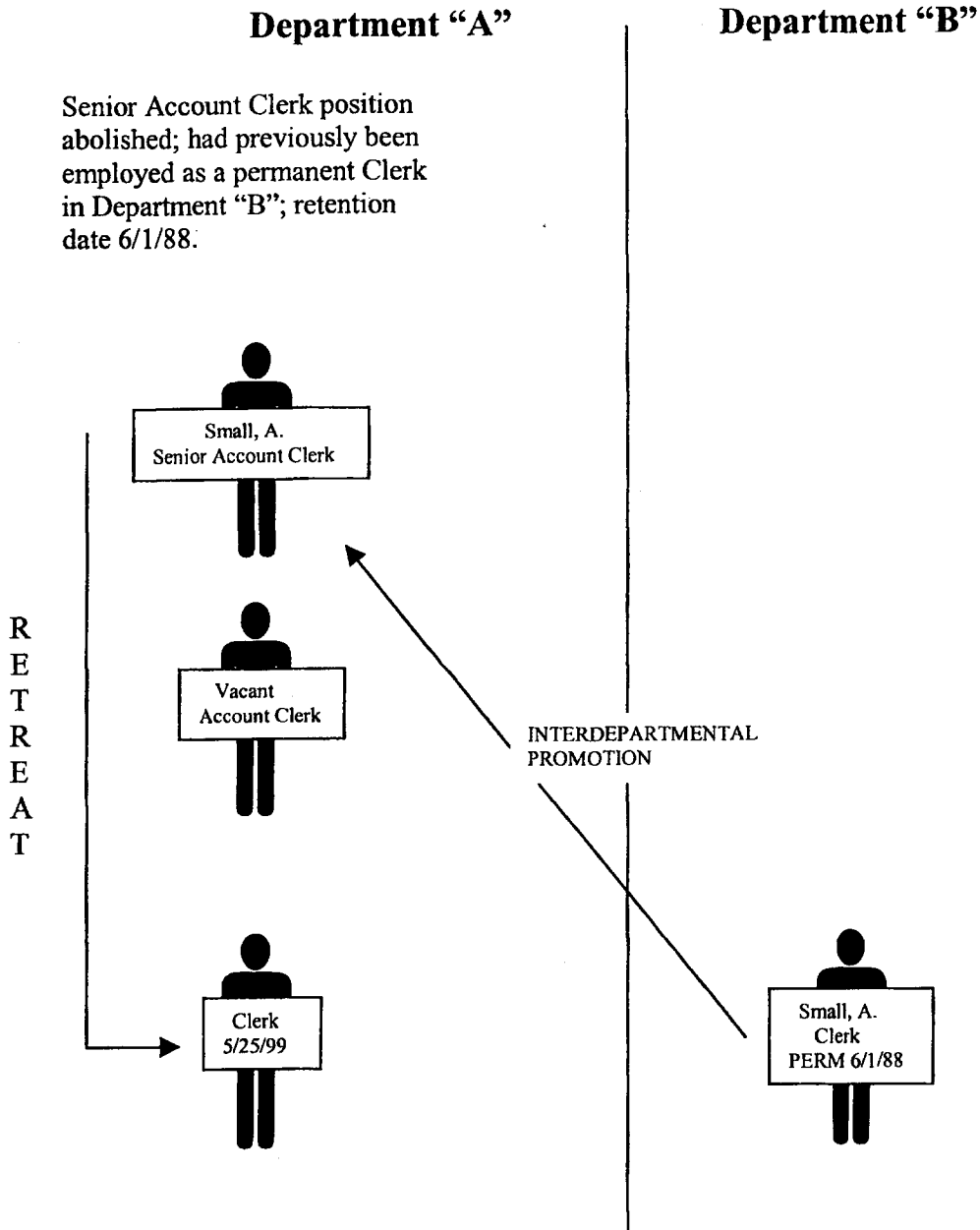
EXAMPLE:



Senior Account Clerk position abolished; had previously been employed as a permanent Clerk; retention date 9/30/89

Section III con't.

It is important to realize that the service of the displacing incumbent in the title to which he or she is retreating need not have been in the same layoff unit as the one from which he or she is displaced. In other words, a Senior Account Clerk in Department "A", who served as a permanent Clerk in Department "B", but never in Department "A", may be afforded the opportunity to "retreat" to an occupied Clerk position in Department "A", regardless of the fact that he or she never served as such in that layoff unit.



Section III con't.

If an employee's retreat title has changed, but the duties have remained the same, the retreat will still be allowed to the new title. It is possible for an employee to displace by retreat to a position in a title in which he or she last served on a permanent basis although he or she had intervening service in other titles, as long as his or her service in each of the intervening titles was on other than a permanent basis.

NOTE: Please remember that any time that an employee, covered by layoff protection, refuses a legitimate job offer within a particular category (reassignment, vertical bump or retreat) that employee thereby forfeits any other opportunities that may seem to be available in any other category and as such the individual's name is entered on a preferred list.

If an individual refuses a legitimate job offer in the same or higher salary grade and in the same layoff unit (as the one in which he or she is being displaced from) the individual is normally laid off and in most cases **will not** be given preferred list rights.

SECTION IV: PREFERRED LIST RIGHTS

As its name implies, the preferred list must be used to fill vacancies before any other list is used. (Civil Service Law, Section 81).

A preferred list is unlike any other list certified to an appointing officer. The appointing officer no longer has the right to select one person out of three names submitted to him/her. He/she only receives a one-name certification. His/her only option then is to appoint the one person or leave the position vacant.

There is another fundamental difference between a preferred list and other lists. Although persons on a preferred list have a four-year period of eligibility, the list itself is not established on a particular date nor does it expire on a particular date. As persons are laid off their names are placed on a preferred list. Their prescribed four-year period of eligibility begins the date they are laid off. Another person in the same title may be laid off six months later. His/her name will be entered on the preferred list for the title but he/she can remain on the preferred list six months longer than the first employee.

Persons are placed on a preferred list in accordance with their seniority. Consequently, this list does change as new persons are added to it. It is possible for a person with greater seniority who is laid off at a later date to go above a person who had been laid off for a longer period.

However, this seeming injustice is overcome by the way the list is certified. A preferred list is certified on the basis of the layoff unit where the employee previously served. Basically, persons who are laid off from a particular layoff unit are entitled to be reemployed in the same layoff unit when vacancies are created. Consequently, the preferred list is certified by submitting the name of the person highest on the list that was laid off from that layoff unit. If there are no persons on the list from that particular layoff unit, the top name on the list is certified.

Section IV con't.

The person who is laid off has the right to be restored to a similar position as the one he or she previously held. Consequently, if he or she accepts a position in the lower grade, he or she is not removed from the preferred list. His or her name will be certified to other vacancies at the higher grade when they occur. If the person refuses to accept a position in the lower grade, his or her name remains on the preferred list. However, he or she will no longer be certified to any vacancy in such lower grade.

When you are offered a position similar to your former position and in the same salary grade and you refuse to accept such position, your name will be removed from the preferred list.

Probationary employees who are on a preferred list and who are later reinstated must complete their probationary term when they have been reinstated.

A person who is reinstated to his or her former or similar position is entitled to receive at least the same salary he or she had at the time of layoff.

Persons on a preferred list can participate in any promotion examinations for which they are qualified. The seniority of persons on a preferred list continues as if they were still employed in their position.

There is one exception to the use of a Preferred List before any other called the "Special Eligible List". Such lists are created when someone who has been in military service and who has not completed all parts of an examination returns to civilian life. If he or she successfully completes the remaining portion of the examination, his or her name is entered on the original eligible list whether or not the list is still in existence. If he or she could have been reached for certification between the time he or she entered military duty and the date he or she was notified that he or she passed the examination, his or her name is placed on a special eligible list for the position. Such "Special

Section IV con't.

Eligible List” remains in existence for a period of two years from the date the individual is placed on it. This list is certified first, even before the preferred list. Generally, such lists contain only one or two names and the appointing officer can elect either to use or disregard such list. (Military Law; Section 243, Subdivision 7).



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