

Civil Service Enforcement Training



Agency Reduction Transfer Lists and Reductions in Force Basics

§ 78 Transfers


Agency Reduction Transfer Lists



- Originally intended to reduce the number of layoffs by matching affected employees with other State job opportunities, but their use has been expanded.
- ARTL transfers are available on a *voluntary* basis to employees who *may be affected by a layoff* (horizontal reassignment, bump or retreat).
- ARTL transfers are available to *employees whose position is relocated to a different county*.
- ARTL transfers are not available to employees who refuse reassignment within the same county or are affected by a return of an incumbent to their position.

ARTL (§ 78) Transfers

The First Step in the RIF Process



- Each agency that has employees eligible for ARTL transfers **must** have an agency contact person to oversee the process with Civil Service and answer employee questions.
- Generally the agency contact person and a representative of Civil Service will meet with employees to explain the ARTL process and help them fill out their blue cards.

ARTL (§ 78) Transfers

Title Comparability Determinations



- The same title, **all direct line lower level titles** (for the competitive class) **for preferred lists, and reemployment roster appropriate titles are comparable titles** for ARTL transfers.
- Other titles will be considered based on the comparability of the tasks and activities; knowledge, skills and abilities; minimum qualifications; content and difficulty of tests; training; and 70.1 transfer determinations.


Rank on ARTL



- Employees certified for a position in their current title, or a direct line title, will be ranked in seniority order (without regard to layoff unit) *and must be considered in that order.*
- Employees certified to a comparable title will be certified randomly, and **any of them may be considered for appointment.**

ARTL (§ 78) Transfers

Certification of Lists



- Generally lists are certified in the following order:
 - ✓ Redeployment Lists (contracting out)
 - ✓ Agency Reduction Transfer Lists
 - ✓ Preferred Lists
 - ✓ Reemployment Rosters
 - ✓ Placement Rosters
 - ✓ Eligible Lists


ARTL (§ 78) Transfers

Certification of Lists - Exceptions



- When both ARTLs and preferred lists exist for the title to be filled, the highest ranked preferred list, *title-for-title eligible* will block the ARTL eligible *if the preferred list eligible has greater seniority*.
- An agency has the choice of using either a *newly established* eligible list or an ARTL when there are no other mandatory reemployment lists through the first 90 days after the establishment of the eligible list. *Thereafter, the ARTL takes precedence over the new eligible list.*


ARTL (§ 78) Transfers Declination Policy



- If you decline a permanent/contingent or permanent appointment to a **same grade level position**:
 - ✓ in the **same** county in which you are currently employed, *your name will be inactivated for all titles and counties.*
 - ✓ in a **different** county from which you are currently employed, *your name will be inactivated for all titles in that county.*

ARTL (§ 78) Transfers


Declination Policy (cont.)



- If you decline a permanent/contingent or permanent appointment to a **lower grade position**:
 - ✓ in the **same** county in which you are currently employed, *your name will be inactivated for all titles at that level and below for all counties.*
 - ✓ In a **different** county from which you are currently employed, *your name will be inactivated for all titles at that level and below in all counties within that area except your current county.*

ARTL (§ 78) Transfers

Probation Periods



- Employees (not currently on probation) who transfer to a position in their current title **do not serve probation** and are *not* given a leave. Probationers in the same situation must **complete their probation** in their new position and **must be given a leave** for the duration of their probation.
- Employees transferring to a different title **must serve a full probationary period** which may *not* be waived and **must be given a leave**.

Reduction In Force Basics

Who Has Rights in Layoff Situations

- **Permanent competitive class employees**, including probationers and contingent permanent employees.
- **Permanent non-competitive class employees with one year of continuous service in the non-competitive class** who are not serving in positions designated as confidential or policy-influencing and who are covered by negotiated agreements.
- Provisional, temporary, exempt, and non-competitive policy influencing employees *do not have retention rights*.

Reduction In Force Basics

Layoff Units



- 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.
- Layoff units are outlined in Section 72.1 of Civil Service regulations.

Reduction In Force Basics

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.
- 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.
- Legally-blind employees must be considered more senior than any other employee in their same title who has the same retention status (e.g. probationer, non-probationer).

Reduction In Force Basics

Continuous Service



- For purposes of determining seniority dates for competitive class employees (or for eligible non-competitive and labor class employees), employment with New York State 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 State service.**
- Employees who are on approved leave or on preferred lists are considered to be in service.

Reduction In Force Basics

Seniority Rosters

- Agencies request Seniority Rosters when there is a likelihood of layoffs occurring in their agency. PEF receives an electronic copy of these rosters when they are provided to agencies. We forward electronic copies of these roster to each PEF regional office where the layoff may occur and to the Statewide Labor Management Chair of the affected agency
- Seniority Rosters are provided for each specified title within each specified layoff unit in either title code order or alphabetic order. See handout for a guide on reading seniority rosters

Reduction In Force Basics

Horizontal Reassignment

- During a RIF, an agency must offer more senior **employees** who cannot retain a position in their current location *an opportunity to be reassigned to another location within the same layoff unit where they will displace less senior employees in the same title.*
- Permanent employees who refuse this type of 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.**


Reduction In Force Basics

Horizontal Reassignment (continued)

- However, if the reassignment would have required accepting a position in another county, the Department of Civil Service will place the names of such employees *on agency reduction transfer lists prior to the date of layoff and on preferred lists and reemployment rosters after the date of layoff* (but not for the county to which the employee refused reassignment).
- There are several different horizontal reassignment methods an agency can use; the **equal numbers method** is the **recommended method** in which the number of choices available for reassignment must be equal to the number of employees who must be offered reassignment. The most senior employee gets to choose among locations of the least senior employees.

Reduction In Force Basics

Other Horizontal Reassignment Methods



- The **One Choice Method** offers employees only the position held by the currently least rights employee.
- **More Senior to Any Less Senior Method** allows any greater retention rights/more senior employee to choose a position held by any lesser retention rights/less senior employee. This method requires that all employees submit their ranked choices of locations they would accept with their current location as their required first choice.

Reduction In Force Basics

The “Bumping” Process

- “Bumping” is the term used any time one person takes a job being held by another.
- Bumping can occur in three ways; *horizontal reassignment is the first bumping option.*
- **Vertical Displacement** – An employee with greater retention status may take the position of the *least senior employee at the next lower-level title in direct line within the same layoff unit;*
- **Retreat** – *When there is no vertical displacement opportunity,* the affected employee may take the position of the least senior employee in the same layoff unit in the *lower-level title the affected employee last held on a permanent (or contingent permanent) basis.*

Reductions in Force in Layoff Units with Multiple Geographic Locations

- Generally all agencies must apply the basic concepts of retention rights and seniority to all employees in the affected title *in the county first, then to all employees in the title within the layoff unit* to determine which employees will retain their current positions, which must be offered horizontal reassignment to a position elsewhere in the layoff unit and which will be suspended (and offered displacement, if available).
- *This “county first, layoff unit second” principle applies only to the horizontal reassignment process.* By law and rule displacement must occur to the position held by the least senior in the entire layoff unit.

Reduction In Force Basics

Freeze on Personnel Transactions



- To ensure that employees are treated equitably and consistently, and to be able to effectively administer the layoffs, at some point it will be necessary to announce a "freeze" on all discretionary personnel transactions in the titles being affected. This means that from the freeze date until the date of layoff, the agency will not reassign potentially affected individual employees to different geographic locations, promote or appoint individuals in affected titles, end probationary periods early, or reclassify affected titles.

Reduction In Force Basics

Preferred Lists

- **PREFERRED LIST** - a mandatory list established as of the date of layoff containing the names of laid off employees ranked by **layoff unit and seniority**, for reinstatement to their layoff title and direct line lower level titles, and/or other appropriate titles.
- Appointments from a preferred list must be made in *strict rank order* from among those eligible candidates willing to accept appointment.
- *Normally no probation period* is required for preferred list appointments unless the appointment is to a traineeship or the employee was serving probation when they were laid off.

Reduction In Force Basics

Reemployment Roster



- **REEMPLOYMENT ROSTER** - a mandatory list established as of the date of layoff containing the names of laid off employees *for appointment to titles other than those for which they are eligible for reinstatement from a preferred list.* These generally are related and comparable titles in their former occupational field as determined to be appropriate by the Department of Civil Service. *The names are certified in random order without regard to seniority, status as a probationer or layoff unit.*
- Your Preferred List and Reemployment Roster eligibility is limited to the four years following your date of layoff.

Reduction In Force Basics

Where To Get More Information



- The Department of Civil Service website has a “Green Book” Information for State Employees Affected by Layoff, Guidelines for the Administration of Reductions in Force, and Employee Guide for Agency Reduction Transfer List at <http://www.cs.state.ny.us/SSD-online/resources.htm>.
- Your PEF Field representative should always be consulted on RIF questions.