

Public Employees Federation Guide to Reduction in Force (RIF)

Prepared by the PEF Civil Service Enforcement/Research
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Introduction

For this primer, PEF Civil Service Enforcement/Research has gathered resources from a variety of sources including: the New York State Department of Civil Service (DCS), the Career Mobility Office (CMO), and PEF's archives. All sources are accessible through this document, and also through the standalone websites of the DCS, CMO, and PEF.

While we aim to provide an overview of the processes and policies which guide the RIF endeavor, we stress that each employee's situation may be different based on title, appointment status, seniority, and jurisdictional classification.

We encourage PEF members and staff to familiarize themselves with the policies outlined in this primer, so as to have the firmest foundation of knowledge in the event of a Reduction in Force.

What is a Reduction in Force?

A Reduction in Force (RIF) or layoff, is the separation or demotion of permanent employees resulting from the abolition of positions. A RIF is a decision made by agency management, the Division of the Budget, State Operations, and in some cases, the State Legislature. The reduction in force process, however, is governed by State law and policy and by provisions in the collective bargaining agreements between the State and the employee unions.

Agency management, in conjunction with the Division of the Budget, may determine that certain positions (items, line items, jobs) are no longer necessary to support the agency mission, or that there is insufficient funding to support certain positions. Agency management and the DOB agree on which specific positions are to be abolished. The agency then submits an electronic transaction to formally remove the position. If the position is filled, a RIF may occur.¹

¹ NYS Department of Civil Service, "Reductions in Force: A Manager's Guide", <https://www.cs.ny.gov/extdocs/pdf/rif-managersguide.pdf>

General Information for PEF Leaders Handling Layoff Questions

1. PEF Leader's Role

The PEF leader's role is to monitor management's actions and/or decisions during layoffs and to answer members' basic questions so they can make informed decisions.

2. State's Role

State agency management and the Department of Civil Service are legally responsible for administering layoffs in accordance with Civil Service Laws, rules, and regulations.

3. Layoff Informational Materials Available via PEF and Civil Service Websites

Information to educate and enable PEF leaders to fulfill their role as monitor of the layoffs at their facility/agency is available on PEF's website.

[Reduction in Force resources](#) are under the link to Contract Information.

There are direct links to Department of Civil Service publications including:

[Employee Guide for Agency Reduction Transfer List](#) (15 pgs.)

[Information for State Employees Affected by Layoff](#) (25 pgs.)

[Guidelines for the Administration of Reductions in Force](#) (13 pgs.)

4. Responding to Members' ARTL Eligibility and Limited Appropriate Titles Questions

Step 1 – Agency Human Resources/Personnel Office

Direct member to agency Human Resources/Personnel Office for response(s).

Step 2 – Department of Civil Service Career Mobility Office (CMO)

If the member still has concerns or disagrees with the agency response(s), the PEF Field Representative, Executive Board Member or Council Leader should then advise the member to contact the CMO directly by e-mail at: cs.sm.careermobility@cs.ny.gov or by telephone: (518) 485-6199 OR 1-800-553-1322 for further information and/or clarification.

Step 3 - PEF Civil Service Enforcement/Research Department

If the issue(s) still remain unresolved, the information already collected can then be referred to PEF Civil Service Enforcement/Research Department for further investigation.

5. Responding to All Other Members' Questions

Step 1 – Agency Human Resources/Personnel Office

Direct member to agency Human Resources/Personnel Office for response(s).

Step 2 – PEF Field Representative, Executive Board Member or Council Leader

If the member still has concerns or disagrees with the agency response(s), the PEF Field Representative, Executive Board Member or Council Leader should then contact the agency for further information and/or clarification.

Step 3 - PEF Civil Service Enforcement/Research Department

If the issue(s) still remain unresolved, the information already collected can then be referred by the PEF Field Representative, Executive Board Member or Council Leader to PEF Civil Service Enforcement/Research Department for further investigation.

6. Potential Article 22 Violations (Contracting Out)

PEF leaders should also be aware of potential Article 22 contracting out situations. If you have evidence that work done by a PS&T Unit member targeted for layoff is going to be or is being contracted out after a layoff, you should contact your PEF Field Representative who will follow up as needed.

PEF Leaders Layoff Information Checklist

Accurate information is essential for PEF Field and Civil Service Enforcement/Research staff to answer specific questions about layoffs in your agency, and for you to ensure that your members are receiving all necessary information. You or your agency statewide PEF Field Representative should request the following information from management:

Frequent Communication

Request that the agency keep the Union informed throughout the process and include Union representatives in layoff related meetings and contacts with employees.

RIF List

Request list of targeted titles and numbers of positions by location.

RIF Date

Confirm the target layoff date

Employee Notification

Find out how and when the agency will be contacting/notifying employees

ARTL Implementation

Request that the agency implement ARTL and distribute blue cards to our members as soon as possible.

Include CMO and DOL Representatives in Agency Informational RIF Meetings

Request that the CMO and DOL representatives be available to affected employees at agency meetings.

Obtain Copies of Documents Distributed by Agency

Request copies of any correspondence and information packets that are given to employees.

Horizontal Reassignment Method

Confirm which horizontal reassignment method the agency has chosen (equal numbers, one choice, or most to least senior).

Seniority Tie Breaking Methodology

Ask what method the agency will be using for breaking ties in seniority.

Post-RIF Employee Impact List

After the layoff date, ask for a detailed list of how the affected employees were impacted.

Layoff Rights & Seniority

What are layoff (or retention) rights?

Layoff rights (retention rights) are primarily determined by status (permanent, contingent permanent, probationary, temporary, etc.) and seniority (continuous service in the classified service of the State).

Generally, more senior permanent employees have retention rights over less senior permanent employees in the affected title being abolished. Employees who are on probation have lesser retention rights than those who have completed probation in the title. Nonpermanent employees have no right to their positions but may have other options, such as returning to a hold item. There are different rules for retention in different jurisdictional classes.²

Per Diem employees and consultants do not obtain tenure, therefore don't have layoffs rights and must be let go before permanent employees in the **"SAME TITLE"**. **It must be stressed that layoffs are done by title, therefore if there are per diems or consultants in a title not being impacted by the layoff, they don't have to be let go before permanent employees in affected titles.**

Seniority

Seniority for purposes of layoff is not synonymous with seniority for other purposes such as retirement, anniversary dates, leave accrual, or for bidding for shift work or pass days. **For purposes of layoff, an employee's seniority date is defined as the date of original permanent appointment in the classified service and continuous service since that date.**

This date is adjusted however for:

- **veterans** - who get 2 1/2 years additional seniority
- **disabled veterans and the spouses of disabled veterans** - who get 5 years additional seniority
- **individuals who are legally blind*** (as certified by the NYS Commission for the Blind and Visually Handicapped), regardless of their original date of

² NYS Department of Civil Service, "Reductions in Force: A Manager's Guide", <https://www.cs.ny.gov/extdocs/pdf/rif-managersguide.pdf>

permanent appointment, are considered the most senior of all employees in their title in the same category of retention status.

- **employees with interrupted service**

- Employees who resigned and who were reinstated/reappointed on or after October 17, 1985 to the competitive or non-competitive class, or labor class by negotiated agreement, should have had their seniority dates recalculated pursuant to CSL §80.3 or §80-a.3, Interrupted Service. Under these sections, employees permanently reinstated or reappointed retain full seniority credit for the period of service prior to their resignation if they returned within three years. If they returned after three years, their seniority date is determined at the time of reappointment by a pro-rata reduction of seniority credit for any time out of service exceeding three years. Example: 7 years previous service, 4 1/2 years absence, 5 1/2 years seniority credit upon return.

Agency Reduction Transfer Lists (ARTL)

Section 78 of Civil Service Law offers state employees who might be affected by the abolition of positions the opportunity to transfer to other agencies or within their current agency prior to layoff. This program is commonly known as the ARTL program. The ARTL program is designed to help permanent State employees stay employed and avoid layoff.

The DCS' [Employee Guide for Agency Reduction Transfer List](#) outlines topics including:

- Introduction to the ARTL Program
- How Does the Program Work?
- Eligibility for the Program
- Employment Opportunities through ARTL
- Declinations/Acceptance
- General Information
- Inactivation Process
- Blue Card

The Career Mobility Office (CMO) also assists State agency personnel with the redeployment of employees affected by reductions-in-force or reassignment.

[Agency Services - CMO \(ny.gov\)](#)

Who is eligible?

Employee must be Permanent and be a:

- Competitive class employee

- Non-competitive class employee*

- Labor class employee*

Employees whose positions are relocated to a different county, but who refuse reassignment.

*Must have completed at least one year of continuous service and be permanent at the time of transfer.

Who is NOT eligible?

Exempt class employees

Non-competitive or labor class employees with less than 1 year continuous service

Non-competitive class employees serving in policy-influencing or confidential positions

Provisional employees*

Temporary employees*

Employees who refuse reassignment within the same county

Employees who refuse a temporary reassignment to a different county

Employees affected by a return of incumbent

*Temporary or provisional employees on leaves of absence from permanent positions may be eligible for ARTL if their permanent hold items could be affected by abolition of positions.