

DEPARTMENT OF ADMINISTRATION  
Bureau of Human Resources

June 13, 1991

**HUMAN RESOURCES MEMORANDUM 18-91**

**TO:** All Department/Agency Heads and Personnel Officers

**SUBJECT:** Amendment to Civil Service Rules

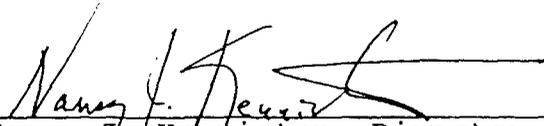
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An amendment to Chapter 12 was recently filed with the Secretary of State. The effective date of this amendment is June 17, 1991.

This amendment repeals and replaces Section 4, Layoff: Conditions and Procedure.

The amendment provides a new layoff and recall process for classified confidential employees. The new process will be by department or previously authorized organizational unit, in accordance with seniority that is measured by all continuous State service with permanent or probationary civil service status. In the event of layoff, the process provides displacement rights to other positions in the department or organizational unit in the same classification, and if no positions of this kind are available, demotion and transfer rights to other positions previously held with status, in accordance with seniority and qualification requirements.

A copy of this amendment is attached. Please make certain that the confidential employees of your department are informed of this change as soon as possible.

  
Nancy J. Kenniston, Director  
BUREAU OF HUMAN RESOURCES

Attachment

Chapter 12, Section 4 of the Civil Service Rules is repealed and replaced as follows:

#### 4. LAYOFF: CONDITIONS AND PROCEDURE

##### A. Conditions

1. An appointing authority may lay off an employee in the classified service by reason of abolition of position, shortage of work or funds, or other reasons outside the employee's control which do not reflect discredit on the service of the employee.

2. Any interruption of employment of fifteen calendar days or less is not considered a layoff.

3. The duties formerly performed by laid off employees may be assigned to other permanent civil service employees who, in the opinion of the Director, hold positions in appropriate classifications.

##### B. Organizational Units

1. Organizational units may be established within an agency on the basis of geographic, functional, budgetary, statutory or other lines as approved by the Director of Human Resources and which best serve the needs of State Government.

2. In the event that organizational units are established within an agency, the units will thereafter be used for layoff and recall.

3. The appointing authority must post a listing of established organizational units or must distribute copies of the listing to notify affected employees of the establishment of organizational units.

##### C. Procedure for Layoff

###### 1. Seniority Determinations

a. Seniority for purposes of layoff and recall is the length of continuous employment with permanent or probationary civil service status. There shall be no proration for part time and seasonal employment.

b. Seniority of permanent or probationary employees on leave of absence or layoff will continue to accrue.

c. A former employee who is on layoff and who is reemployed within three (3) years of layoff will be credited with all accrued seniority.

## 2. Transfer and Demotion in Lieu of Layoff

a. Employees who are laid off from their positions must be offered transfer in lieu of layoff to a vacant position in the same job classification or, if no vacant positions are available, to the position in the same job classification occupied by the employee with least seniority, provided the employee has greater seniority than the employee to be displaced. Transfer must be by agency, or by organizational unit, as appropriate.

b. An employee must be offered demotion if the employee has no transfer rights to any position in the same classification. Demotion is limited to classifications previously held, with status, by the employee. Demotion rights are limited to positions that are either vacant or occupied by the least senior employee in the agency or organizational unit for which the employee to be demoted has greater seniority.

## 3. Equal Seniority

a. Where it is determined that seniority is equal, transfer or demotion rights will be determined by the date of acquisition of permanent status.

b. If transfer or demotion rights cannot be determined by date of acquisition of permanent status, these rights will be determined by the appointing authority in such a manner as to conserve to the state the services of those employees deemed most valuable.

## 4. Rights to Other Employment

a. In the event that a probationary or permanent employee is to be laid off from any position while any project, acting capacity or otherwise temporary employee is working in any classification for which the probationary or permanent employee may have transfer or demotion rights, the permanent or probationary employee must be offered the work.

## 5. Limitations on Transfer and Demotion

a. Transfer and demotion rights are subject to the availability of funded positions.

b. No employee may transfer or demote to a position if, in the opinion of the appointing authority, the employee is not qualified to perform the duties of the position and the employee cannot acquire the necessary skills and qualifications within a reasonable orientation or training period.

c. In the event that an employee is deemed unqualified to transfer or demote to the position occupied by the least senior employee, the employee must be offered transfer or demotion to the position occupied by the least senior employee for which the employee is qualified to perform the duties, provided the employee has greater seniority than the employee to be displaced.

d. Seasonal employees are not entitled to transfer or demote into year round positions. Year round employees are not entitled to transfer or demote into seasonal positions.

e. Part time employees are not entitled to transfer or demote into full time positions. Full time employees are not entitled to transfer or demote into part time positions.

#### 6. Layoff Registers and Recall

a. The names of permanent or probationary employees laid off or demoted in lieu of layoff must be placed in order of seniority on the layoff register for the classification.

b. Recalls to vacancies must be certified in order of seniority, first to employees who were employed within the agency or organizational unit at time of layoff or demotion, second to employees from other organizational units within the agency, and finally to employees from other agencies.

c. The appointing authority may, with the approval of the Director of Human Resources, refuse to hire an employee for recall if the employee is not qualified to perform the duties of the position and cannot acquire the necessary skills and qualifications within a reasonable orientation or training period.

#### 7. Recall Provisions

a. Probationary Status. Upon recall, employees laid off during the probationary period will be credited with time served prior to layoff.

b. Longevity. An employee who is recalled or reemployed from layoff within three (3) years of layoff will have time on layoff count for the purpose of determining eligibility for longevity pay.

c. Vacation Accrual. Time on layoff will not count for purpose of adjustments to the vacation accrual rate.

#### 8. Notice to Employees

a. In every case of layoff of a permanent or probationary employee, the appointing authority must give written notice at least fifteen calendar days before the date of layoff. The

notice must give reasons for the layoff. A copy of the notice must be forwarded to the Director of Human Resources at the time the notice is given to the employee.

b. In the event that an employee is notified of transfer or demotion rights under this Chapter, the employee must inform the appointing authority of his/her decision to accept employment or to accept layoff within three work days.

c. The appointing authority will indicate to all temporary and seasonal employees at time of hire the approximate date of termination of employment. This notice will constitute all notice required under these rules.

d. Notice to employees must inform employees of their right to grieve disputed layoff and recall actions pursuant to Chapter 13 of these rules and sections 7081 - 7084 of the Civil Service Law.

AUTHORITY: 5 MRSA, Chapter 372, sections 7034, 7036, and 7081 - 7084.

Effective: June 17, 1991