

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

PERSONNEL MANAGEMENT MANUAL

Advisory Memorandum #24-07

2300 Reductions in Force

October 2024

TO: Department and Agency Directors of Human Resources, Human Resources Specialists, Diversity Officers, Equal Opportunity Specialists, Diversity and Inclusion Specialists

FROM: Benjamin Gifford, Director of Staffing Services

SUBJECT: Protection for Employees in Non-Competitive and Labor Class Positions in the Event of Abolition of Positions or Reductions in Force

DATE: October 22, 2024

This advisory memo supersedes any contrary guidance related to this issue including references in: SPMM 1450, 1460, 1470, 2350, 2360, 2370, SPMM Policy Bulletin 13-01, Guidelines for the Administration of Reduction in Force, Reductions in Force - A Manager's Guide, Employee Guide for Agency Reduction Transfer List, and Information for State Employees Affected by Layoff.

Legislation enacted in November 2023 (Chapter 676 of the Laws of 2023) amended Civil Service Law (CSL), Title C, Section 80, and simultaneously repealed CSL, Title C, Section 80-a. These changes to the CSL revised and added protections for individuals in the non-competitive and labor jurisdictional classes in the case of abolition of positions resulting in reductions in force. This law became effective February 19, 2024.

Previously, CSL, Title C, Section 80 provided protection to executive branch employees in permanent, competitive class positions, in the case of position abolition or reduction in force. CSL, Title C, Section 80, also provided employees in permanent, competitive class positions impacted by position abolition or reduction in force, the ability to displace individuals in the next lower occupied title in that title series, within the same jurisdictional class, within that layoff unit (i.e., vertical bumping). If the individual did not have vertical bumping options, they may have had retreat options based upon prior positions held.

CSL, Title C, Section 80, as amended, now includes individuals serving in permanent, **non-competitive, and labor class** positions. This includes individuals in **non-competitive, phi tagged positions** and those serving in **non-competitive HELPS positions**. These individuals will be afforded the same rights and privileges afforded to individuals in permanent, competitive class positions, including vertical bumping, in the case of position abolition or reduction in force.

Non-Competitive Class

Previously, CSL, Title C, Section 80-a provided protection to individuals in permanent, non-competitive class positions so long as the individual serving in the positions had met the guidelines for CSL Section 75. CSL Section 75 required individuals serving in non-competitive

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jurisdictional class positions, other than phi-tagged positions, who had five years of continuous service since last entry into the non-competitive class to be afforded protection in the case of position abolition or reduction in force. This five-year period could be shortened by negotiated agreement.

Since the amended Section 80 now includes individuals in permanent, non-competitive jurisdictional class positions, the time-in-title requirements previously determined by the CSL or negotiated agreements have been removed. For the first time, individuals serving in phi-tagged positions will obtain layoff rights, without regard to the existence or non-existence of a hold item.

Labor Class

Previously, individuals in permanent, labor class positions only had protection in the case of position abolition or reduction in force through time-in-service provisions in CSL Section 75 or through a negotiated agreement. This new legislation provides consistency across jurisdictional classes and allows individuals in both non-competitive class and labor class positions to have the same rights under Section 80 as individuals in competitive class positions.

Reemployment Rights for Non-Competitive and Labor Class Employees

Previously, permanent non-competitive or labor class employees only had reemployment rights as a result of a reduction in force (RIF) if they met the tenure guidelines in CSL 75 or were covered by negotiated agreement. Under the new legislation, permanent non-competitive (including confidential and policy influencing) and labor class employees have the same reemployment protections as their competitive class counterparts in the event of a RIF.

Other Matters

The rights of individuals serving in probationary, contingent permanent or temporary status do not change, except for the rights granted to employees serving in non-competitive class (including phi) and labor class positions, as described above. Please file this information with your RIF materials and ensure distribution of this memorandum to appropriate Human Resources and Labor Relations Personnel.

Any questions about position abolition or reduction in force should be referred to the Career Mobility Office of the Department of Civil Service at (518) 485-6199 or 1-800-553-1322.