

LAYOFF PROCEDURES

**PROCEDURES AND
GUIDELINES TO BE
FOLLOWED IN THE EVENT
OF LAYOFFS**

A MANUAL FOR AGENCIES



THE CITY OF NEW YORK

Revised August 11, 2020

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I. INTRODUCTION

The elimination of positions in the civil service for economic reasons and the resulting layoff and termination of incumbents serving in those positions can be very confusing. The rights of any particular individual can be governed by the New York State Civil Service Law (CSL), the Personnel Rules and Regulations of the City of New York (PRR), a union contract, and/or the New York State Military Law. An individual's rights depend on such factors as the jurisdictional classification in which the individual serves (competitive, non-competitive, labor or exempt class), the nature of the appointment (permanent or provisional), and the agency at which the individual is employed (city agency, or separate entity or authority). Moreover, an employee serving in one title may have permanent status in another title, resulting in still another level of analysis in the layoff process.

Although this manual focuses on the procedures for layoffs when they actually need to occur, it is strongly recommended that agencies read this entire manual now in order to become familiar with the many issues which arise when layoffs occur. An understanding, for example, of the order of layoffs and terminations and how employees may "bump" other employees will enable agencies to make better and quicker decisions when layoffs are inevitable. Additionally, agencies should give special attention to Equal Employment Opportunity (EEO) related layoff issues, such as the impact of layoffs on protected groups (for example, racial, gender or age groups).

This manual is for use by all Mayoral agencies and non-Mayoral agencies under the jurisdiction of the Commissioner of the Department of Citywide Administrative Services ("DCAS"); thus, this manual is for use by agencies such as the Housing Authority, Department of Education, and two MTA entities (Transit Authority and Triborough Bridge and Tunnel Authority), but not for use by other MTA entities, NYC Health + Hospitals, or CUNY.

Note: Specific procedures for some titles may vary among entities depending on collective bargaining agreements.

The manual is organized to be a quick reference for necessary layoff actions with cross references included to give additional information and explanations. Chapter II gives agencies a quick reference to the layoff/termination process. Chapter III gives agencies pointers on how to select layoff titles. Chapters IV through VII deal with layoffs for permanent and probationary competitive class employees. Layoff guidelines and procedures for labor class and non-competitive class employees are discussed in Chapter VIII. Exempt and unclassified employees have no layoff rights except that unclassified employees who are serving in the military at the time of layoff have rights to be placed on a Citywide Military Re-employment List.

The applicable sections of state law and other related source documents (including the PRR) are attached to this manual as Appendices A and B. Documents that are involved in the layoff process are attached to this manual in Appendices C through E. Agencies should ensure that they are using the most recent versions of the

forms, by reviewing the APO Portal.

This manual cannot address every scenario, and nothing in this manual is intended to create any new or different right, or to supersede any existing law, rule, regulation or contract provision. This manual seeks only to provide guidance with respect to a majority of situations.

II. QUICK REFERENCE TO THE LAYOFF/TERMINATION PROCESS

A. Layoff Task Force

When it is determined that layoffs/terminations will occur, a Layoff Task Force will be formed to include DCAS, the Office of Labor Relations (OLR), the Mayor's Office of Operations (Operations) and the Office of Management and Budget (OMB). The Layoff Task Force will have primary responsibility for policy issues related to layoffs/terminations.

B. 30-Day Notice

The Citywide Agreement (see Appendix B) provides that notice shall be given by OLR to the appropriate union(s) **not** less than thirty days before the effective date of projected layoffs. This "30-day notice" includes the titles targeted for layoffs and the number of positions to be eliminated, as well as a preliminary list of those employees who may be laid off in targeted titles. The 30-day notice also triggers the need for meetings with the affected unions and notice to certain employees.

Note: While the Civil Service Law is most concerned with identifying the correct order in which competitive class employees are to be laid off (CSL Section 80) and potentially returned to work (CSL Section 81), the Citywide Agreement is concerned with both the order of layoffs for non-competitive and labor class employees (Citywide Agreement, Article XVII, Section 3) and the kinds of notice which all covered employees and their respective unions are entitled to receive (Citywide Agreement, Article XVII, Section 1). Because about 1000 different competitive, non-competitive and labor class titles are covered by the Citywide Agreement, this manual will be tailored mostly to those titles. If a particular title is not covered by the Citywide Agreement, there may or may not be a similar agreement governing similar issues. Every attempt will be made in this manual to highlight those instances where another agreement should be referred to. When considering a title that is not covered by the Citywide Agreement for layoff, agencies should consult the unit collective bargaining agreement and OLR for guidance.

A 30-day notice can be prepared by OLR after the following steps are taken:

1. An agency receives instructions from OMB and the Mayor's Office specifying the reduction target for their personnel budget.
2. After discussions with appropriate parties such as the Law Department, an agency selects titles and/or programs to be targeted for layoff in order to meet the required budget reduction.
3. An agency notifies DCAS, OLR and OMB as to which titles, positions, and employees have been identified for layoff. OLR then schedules

management meetings as needed.

4. An agency uses the Attrition Management System (AMS) to record names of employees identified in titles targeted for layoff. These names will be electronically submitted to DCAS' Bureau of Civil Service Administration. (See Appendix D-3 for AMS guidelines.)

Note: Even if a title is not covered by the Citywide Agreement or another agreement which includes a 30-day notice (or similar), agencies still must enter the names of these employees into AMS.

5. OLR sends copies of the 30-day notice to affected union(s), DCAS, and the layoff agency. At this time, OLR coordinates meetings with the affected unions, DCAS, OMB, Operations and the layoff agency.

C. Permanent/Probationary Competitive Employees: Additional Steps for Processing Layoffs

1. DCAS sends Preliminary Seniority List to the agency (see Chapter IV, Section C).
2. The agency distributes At Risk Letter (see Chapter IV, Section D and Appendix C-1) and Preference Claim form (DP-323) to employees subject to layoff, including employees on leave of absence.

Note: Reference is made throughout this manual to form letters prepared by DCAS. Unless specifically authorized by DCAS, agencies may not modify the language of these letters.

3. The agency makes sure that the Preliminary Seniority List is accurate by ensuring that individuals are currently employed as indicated and that all other information shown is correct. If there are any discrepancies, the agency is to make notations as to the change in status and effective date. The agency also adds names of any employee who is missing from these lists. The agency reviews and confirms with DCAS any changes that must be made to the Preliminary Seniority List.
4. The agency makes all necessary additional changes in the appropriate HR/payroll system.

Note: A new 30-day notice period is only required if the number of employees on these lists is increased or if new titles covered by the Citywide Agreement (or other collective bargaining agreement with similar notice provisions) are added. A new 30-day notice period is **not** required if, because of correcting discrepancies through a review

of preliminary seniority lists, different employees are identified for layoff. (See Appendix B-1.)

5. The agency returns the annotated Preliminary Seniority List(s) to DCAS within three business days of receipt. If DCAS subsequently revises these lists, they will be returned to the agencies for further review and any modifications. Agencies must return these lists to DCAS within another three business days. Agencies will issue At Risk Letters and Preference Claim forms (DP-323) to those employees who have been added to the list.
6. The agency collects completed Preference Claim forms (DP-323) from affected employees, reviews for completeness and returns to DCAS along with a copy of the employee's DD-214 (military discharge papers), evidence of the employee's current address, and where applicable, an employee's disability certificate and marriage certificate (for spouses of 100% disabled veterans), within three business days of date of receipt from DCAS.
7. The agency must enter any claimed preference into AMS (see Appendix D-3) and notify DCAS.
8. DCAS will revise the Preliminary Seniority List to give additional seniority to qualified veterans and those who qualify for other preferences.
9. OLR/DCAS authorizes implementation of permanent/probationary competitive layoff plan.
10. DCAS prepares Special Transfer Lists of permanent/probationary employees identified for layoff and certifies to agencies to replace provisionals or to fill approved vacancies in the layoff title.
11. DCAS prepares the Final Seniority List.
12. The agency prepares and distributes the Layoff/Termination Letter (see Appendix C-4) to affected permanent/probationary competitive employees who received the At Risk Letters and have been identified for layoff. An agency may not modify the language of the Layoff/Termination Letter. As discussed in more detail in Chapter X, agencies are strongly encouraged, where possible, to meet personally with employees to be laid off. The Layoff/Termination Letter should be given to the employee at that time. If a meeting is not possible, Layoff/Termination Letters must still be distributed to employees.
13. The agency lays off affected employees.

14. The agency payrolls layoffs, bumping actions, transfers and retirements by entering the appropriate reason code into their HR/payroll system (see Chapter IX).
15. The agency enters the layoff effective date in the 'PMS Layoff Date' field of AMS (see Appendix D-3).
16. DCAS creates the preferred lists and certifies as required.

D. Provisional Employees: Steps for Processing Terminations (For Economic Reasons)

1. OLR/DCAS authorizes an agency to distribute Layoff/Termination Letter (see Appendix C-3) to affected provisional employees. This letter should be distributed in the manner specified in Section C-12 above.
2. The agency terminates affected employees.
3. The agency payrolls terminations by entering the appropriate reason code into its HR/payroll system (see Chapter IX).
4. The agency enters the layoff effective date in the 'PMS Layoff Date' field of AMS (see Appendix D-3).

E. Non-competitive and Labor Class Employees: Additional Steps for Processing Layoffs

The procedures outlined below cover employees serving in a non-competitive or labor class title where:

- the title is covered by the Citywide Agreement, or
- the employee is a veteran (as that term is defined in the Civil Service Law) or an exempt volunteer firefighter.

Note: Where the collective bargaining agreement between an employer and a union representing employees serving in a labor class title does not, unlike the Citywide Agreement, contain provisions regarding layoff or recall rights, layoffs shall be governed by Rule 6.5.5 of the PRR.

Note: A non-competitive employee who (1) is not a veteran (as that term is defined in the Civil Service Law) or exempt volunteer firefighter, or (2) is not covered by the Citywide Agreement (or a similar agreement with layoff or recall rights) may be laid off in any order.

Note: An exempt volunteer firefighter is one who has performed exempt volunteer firefighter duties for a minimum period of five years and is performing those duties at the time the employee is identified for layoff (as defined under General Municipal Law, Section 200). General Municipal Law Section 202 provides for a certificate to be issued to an eligible exempt volunteer firefighter.

1. DCAS sends Preliminary Seniority List to the agency.
2. The agency distributes At Risk Letter (see Chapter VIII, Section D and Appendix C-2) and Preference Claim form (DP-323) to employees subject to layoff, including employees on leave of absence.
3. The agency makes sure the Preliminary Seniority List is accurate by ensuring that individuals are currently employed as indicated and that all other information shown is correct. If there are any discrepancies, the agency is to make notations as to the change in status and effective date. The agency also adds names of any employees who are missing from these lists. The agency reviews and confirms with DCAS any changes that must be made to the Preliminary Seniority List.

Note: Labor class and non-competitive employees on approved leave status from a permanent competitive title have the right to return to their permanent leave title. Unless specified by an existing Memorandum of Agreement or labor agreement, a labor class or non-competitive class employee will be presumed not to have a leave of absence from a labor class or non-competitive title in which the employee served previously.

4. The agency makes all necessary additional changes in the appropriate HR/payroll system.
5. The agency returns the annotated Preliminary Seniority List(s) to DCAS within three business days of receipt. If DCAS subsequently revises these lists, they will be returned to the agencies for further review and any modifications. Agencies must return these lists to DCAS within another three business days. Agencies will issue At Risk Letters and Preference Claim forms (DP-323) to those employees who have been added to the list.
6. The agency collects completed Preference Claim forms (DP-323) from affected employees, reviews for completeness and returns to DCAS along with a copy of the employee's DD-214, evidence of the employee's current address, and, where applicable, an employee's disability certificate and marriage certificate, within three business days of date of receipt from DCAS.

7. The agency must enter any claimed preference into AMS (see Appendix D-3) and notify DCAS.
8. DCAS will update the Preliminary Seniority List to include any verified claims for preference.
9. OLR/DCAS authorizes implementation of labor class and non-competitive layoff plans.
10. An agency prepares and distributes the Layoff/Termination Letter to affected labor class and non-competitive employees who received the At Risk Letters and have been identified for layoff. This letter should be distributed in the manner specified in Section C above.
11. DCAS creates Citywide Transfer Lists of qualified veterans and exempt volunteer firefighters and certifies to agencies to fill approved vacancies prior to layoff. Any individuals appointed are removed from preference/recall lists for that title.
12. DCAS prepares final seniority lists and distributes them to the agencies.
13. The agency lays off affected employees.
14. The agency payrolls layoffs, transfers and retirements by entering the appropriate reason code into their HR/payroll system (see Chapter IX).
15. The agency enters the layoff effective date in the “PMS LayoffDate” field of AMS (see Appendix D-3).
16. DCAS creates agency recall lists for non-competitive and citywide recall lists for labor class (or, where appropriate citywide preferred lists for labor class titles, pursuant to PRR 6.5.5).

Note: Veterans and exempt volunteer firefighters in non-competitive or labor class titles do not get any additional rights in terms of order of layoff beyond transfer list rights. Names of employees in titles not covered by the Citywide Agreement (or other collective bargaining agreement with similar layoff provisions) do not appear on agency recall lists.

III. SELECTION OF LAYOFF TITLES BY OPERATING AGENCIES

In the event of a budget reduction, an agency will be confronted with a series of difficult choices, including identifying which programs may not be part of its core mission and which critical functions it can perform with fewer employees. The following factors should be considered in making determinations:

➤ Size of Budget Cut

1. Impact on Operations

The agency must consider the impact that a budget reduction will have on achieving the agency's performance goals and accomplishing the agency's mission. It would be advisable for the agency to prioritize functions and select areas to downsize that will have the least effect on the more critical functions.

2. Effect on Programs

Any budget cut resulting in significant reduction in staff will have an effect on the agency's programs. In this situation, the agency must decide how to allocate staff in order to maintain the level of service the agency is required to provide. Within this framework, the agency should examine its mission to determine whether any programs are no longer essential in their present form or are no longer needed at all. The agency must also consider any statutes, court orders or consent decrees which mandate particular services, programs or staffing levels.

➤ The Number of Provisionals Serving in Each Competitive Title

Because the termination of provisionally appointed employees is governed by neither the Civil Service Law nor any contractual agreement, it is procedurally less complicated to terminate provisional employees than permanent employees. Civil Service Law requires that all provisionals in a layoff title must be terminated prior to any permanent incumbent being laid off. As discussed in this section, operational and other factors must be considered as well.

➤ Salaries of Employees in Various Titles

Salaries should be considered. For example, in lower salaried titles, more employees may have to be laid off than in higher salaried titles.

➤ Whether the Employees in Titles Being Considered for Layoff Are in One Functional Area or Are Dispersed Among Several or Many Such Areas.

If the intent is to eliminate or significantly reduce a given functional area but it is found that the employees working in this area have more seniority than other employees in the same title working in critical areas, the agency may not be able to accomplish this reduction without disruption of the critical function.

➤ The Implications of Targeting Titles Above the Entry Level

Selection of other than entry level titles may result in bumping of employees in lower titles. Further, it should be kept in mind that, although employees in higher level titles can perform the duties of lower level titles, the reverse situation can be problematic.

➤ The Implications of Targeting Titles Where Employees Are Stepped Up From a Permanent Title

Employees who are stepped up from a permanent title and are laid off in one of those titles would merely revert to their remaining title with no reduction in headcount. Thus, if the agency is instructed to lay off a certain number of employees (as opposed to targeting a monetary budget reduction) the agency may have to plan to lay off more employees than the number mandated.

➤ The Number of Employees on Leaves of Absence in Each Title

When deciding upon the number of individuals to be laid off in a particular title in order to meet specific budget cuts, agencies must consider the fact that there may be individuals who are on leaves of absence in the layoff title. Consequently, costs are not cut since the individual is not actually laid off. In these cases, the agency would only be terminating the permanent line. Therefore, agencies should add a cushion to the number of individuals to be laid off in order to achieve the desired cuts and to avoid requiring a new 30-day notice to affected unions.

➤ The Date of the Intended Layoffs

The target date for implementation of the layoffs may be set with very little lead time given for issues and problems to be discussed and resolved. Thus, it is very important that the appropriate person within the agency gain a clear understanding of the layoff process so that all phases of the process will be completed in a timely manner.

➤ The Number of Employees That Must Be Laid Off in Each Title to Meet the Budget Cut

It may be more efficient for the agency to target fewer titles populated by

many employees as opposed to many titles populated by relatively few employees.

➤ If There Are Employees in Service Outside of the City

Non-competitive employees in competitive class titles appointed pursuant to PRR 3.2.11 (i.e., service outside the City of New York where the employee is a resident of such locality) will be treated as non-competitive employees for purposes of layoffs.

➤ EEO Considerations

Under the guidance of the agency general counsel, each agency should analyze the impact of layoffs on members of protected groups. For example, where an agency can choose between a competitive class title earmarked for present incumbents only and a subsequently classified non-competitive or labor class title (e.g., a choice between the competitive class title of Custodial Assistant and the labor class title of City Custodial Assistant), an agency should review whether reducing or eliminating positions in the competitive class title would adversely impact older workers or a racial, ethnic, or gender group. Where agencies target titles or programs for reduction or elimination which result in a disproportionate number of layoffs among particular groups, agencies must document that the targeted titles and/or programs were selected based on objective criteria and justified by business necessity (i.e., such reductions were more essential within the agency than reductions in other offices or programs which would have had less impact on those groups).

IV. COMPETITIVE CLASS EMPLOYEES: LAYOFF PROCEDURES

A. Required Order of Layoff

Where an agency's budget reduction plan includes the elimination of competitive class positions, it is the obligation of the agency:

- to notify DCAS, OLR and OMB as to the titles and number of positions;
- to prepare a preliminary list of employees serving in titles selected for layoff; and
- to enter the appropriate information into AMS.

Thereafter, the agency is required to assist DCAS in determining the final order in which individuals in these titles are to be laid off/terminated.

Employees in a given layoff title in an agency are to be laid off/terminated in the following order: first provisional, temporary and seasonal employees, then probationary competitive employees, and finally permanent competitive employees.

Note: The Civil Service Law provides that, where competitive class positions in an agency are reduced or eliminated, layoffs shall be made from among employees holding the same title in the same agency. Consequently, an agency is considered a "layoff unit." In certain exceptions specified in PRR 6.5.2, however, a layoff unit may be smaller than an entire agency. DCAS will, in the event of layoffs, work closely with those few agencies to which this exception applies.

1. Provisional, Temporary and Seasonal Employees

All full-time per annum and per diem provisional (PRR 5.5.1. pure and step-up), temporary and seasonal employees in a given title must be terminated before layoffs of permanent/probationary competitive employees in the same title can take place in the agency. Provisional, temporary and seasonal employees can be terminated without regard to seniority. Provisional employees who have two or more years of service do not have greater rights to remain employed than those who have less than two years of service. If the agency terminates employees from their provisional step-up positions, they must be returned to their permanent competitive titles. At that point, they may be subject to layoff if those titles are also targeted for layoff.

2. Probationary Competitive Employees

Only when all full-time per annum and per diem provisional, temporary and seasonal employees in a layoff title in an agency have been terminated can the agency lay off probationary competitive

employees. (For purposes of layoff, employees on disciplinary probation are treated as permanent competitive rather than as probationary employees.) Regardless of civil service seniority (see Section B below), probationary competitive employees in each agency will be laid off or displaced (bumped) before permanent competitive class employees in the same title. This means that all probationary employees (including those who have more seniority than those permanent employees in the same title) will be laid off before any permanent employees. Probationary competitive employees will be laid off or bumped in inverse order of civil service seniority among all probationary competitive employees in the same title in the same agency (CSL Section 80, subd.1). Seniority is adjusted for veterans, disabled veterans, and for other preferences as defined in Section 85 of Civil Service Law. (See Appendix A-3).

Note: Under Military Law Section 243(9), after appointment, time spent on military duty is credited toward satisfactory completion of the probationary period.

Note: Probationary employees with a prior permanent title may be able to return to that title instead of being laid off.

3. Permanent Competitive Employees

Only when all probationary competitive employees in a given layoff title in an agency have been laid off can the agency lay off permanent competitive employees. Permanent competitive class employees are retained on the basis of civil service seniority (see Section B below). Although seniority is based on total continuous civil service seniority, it is, as noted above, applied within each agency, for each title for which layoffs are contemplated. This means that the seniority of each employee is compared only with that of others in the same title as the individual in the agency.

Note: Seniority is adjusted for veterans, disabled veterans, and other preferences as defined in Section 85 of Civil Service Law.

Note: Employees appointed non-competitively to competitive class titles pursuant to PRR 3.2.10 and Section 55-a of the New York State Civil Service Law will be treated as probationary competitive or permanent competitive employees for purposes of layoffs. For purposes of seniority, the date an employee is appointed pursuant to 55-a will be deemed equivalent to the date a competitive employee is appointed from an eligible list.

4. Blind Employees

Blind employees will receive absolute preference over all others including veterans in their title without regard to seniority or probationary status. (CSL Section 85, subd. 7). Employees must be certified as legally blind by the NY State Commission for the Blind.

B. Civil Service Seniority

In order to determine the order in which probationary competitive/permanent competitive employees are to be laid off, the employees must be ranked according to Civil Service Seniority Date. Probationary competitive employees are ranked separately from permanent competitive employees in the same title since, as previously stated, probationers will be laid off before any permanent competitive employees are laid off for a given title, even if probationary employees have more overall seniority than non-probationary employees (see Appendix C-6).

1. What is the Civil Service Seniority Date?

An employee's Civil Service Seniority Date is the date an employee was first appointed on a permanent basis in an agency and title in the classified service of the City of New York with continuous service since that date. This date is used to determine the order of layoff or demotion (bumping). The classified service includes competitive, non-competitive, labor class, and exempt class employment. While civil service seniority for a competitive class employee begins on this appointment date, it must have been followed by completion of the probationary period in that title and continuous service (CSL Section 80, subd. 2). In some cases, City Start Date may be the same date as the Civil Service Seniority Date. Service in titles of limited duration (e.g., Summer Graduate Intern or City Seasonal Aide) will not be counted towards seniority.

Note: For sworn members of the Police Department, for purposes of determining the order in which employees are laid off, the Civil Service Seniority Date is the date an employee was first appointed to the title or rank in which the layoff occurs. CSL Section 80(1-f).

2. Covered Agencies

Employees receive civil service seniority credit for service in agencies that are under the jurisdiction of the Commissioner of DCAS (and, therefore, the Personnel Rules and Regulations of the City of New York). However, employees who have been functionally transferred (that is, not voluntarily transferred) from a New York State

governmental agency, department or civil division of the State or a public benefit corporation such as NYC Health + Hospitals or CUNY to a covered agency will be accorded civil service seniority as if they had been serving in covered agencies.

3. Continuous Service

Employees generally receive credit for continuous service as described above in calculating civil service seniority if they meet the above conditions and have not had a break in service of more than one year (see Appendix A-1).

Note: Authorized leaves of absence are not considered a break in service.

4. How is the Civil Service Seniority Date Adjusted?

This Civil Service Seniority Date is adjusted for layoff purposes for qualified veterans and disabled veterans, spouses of 100% disabled veterans, and individuals who are legally blind. (CSL Section 85, subd. 7). Disabled veterans and eligible spouses of 100% disabled veterans get 60 months (5 years) of additional seniority, and veterans get 30 months (2 1/2 years) of additional seniority. Legally blind employees are considered the most senior employees in their title. (See Appendix C-7).

5. How Are Ties in Civil Service Seniority Date Broken?

For employees with the same Civil Service Seniority Date (after all appropriate adjustments), those employees hired from a civil service list with an earlier establishment date are given priority over those hired from a list with a later establishment date. Within each list, employees are ranked in order of their list numbers. Where one of the employees involved in the tie has a seniority date based upon a permanent appointment in the classified service which was not from a list (e.g., non-competitive, etc.), the tie is broken by a sequence of the number derived from the last five and then the first four positions of the Social Security number with the lowest number receiving the greatest seniority. Where employees with the same seniority date were hired from different civil service lists with the same establishment dates, such ties are broken using the Social Security number as above.

C. Preliminary Seniority List (For Permanent/Probationary Class Employees)

Once it is determined that the number of provisionals in the layoff title is less than the required number of positions to be eliminated in this title, the agency will be required to lay off probationary competitive and/or permanent

competitive class employees in that title. In order to accomplish this, the agency must assist DCAS in the preparation of a Final Seniority List. This process starts with the generation of the Preliminary Seniority List by DCAS. The steps in this process are shown in the “Quick Reference Section” in Chapter II.

Note: By its very nature, a Preliminary Seniority List is subject to change based upon required adjustments and the correction of discrepancies. As noted above, a new 30-day notice period is **not** required just because different employees are identified for layoff.

The Preliminary Seniority List is a list of all (or, in some instances, a designated number of) permanent and probationary competitive class employees in a title in an agency in inverse order of their civil service seniority. This list includes both active employees and employees who are on authorized leaves-of-absence from their permanent competitive titles. It will show civil service status information for all (or in some instances a designated number of) permanent and probationary employees in that title within the agency. The Preliminary Seniority List does not, at this point, reflect adjustments (extra seniority) for veterans or other preferences which may be claimed by individual employees.

The agency will receive a letter from DCAS together with the Preliminary Seniority List. **It is critical that the agency carefully review all information shown on the Preliminary Seniority List and follow all instructions in the letter for completion of this list.** The agency should update the information on the list by annotating corrections directly onto it. Make sure to indicate whether the expected number of layoffs in each title includes provisionals or whether this number reflects the number of permanent employees to be laid off after all provisional employees have been terminated.

DCAS will also issue Preliminary Seniority Lists for titles impacted by bumping, based on either the agency’s layoff plan or by a DCAS preliminary title analysis.

D. Required Letters and Forms

1. At Risk Letter

The layoff agency must distribute the At Risk Letter (Appendix C-1) to all permanent and probationary competitive employees who are deemed at risk for layoff immediately following issuance of 30-day notice to the union(s) by OLR. The At Risk Letter is **not** a layoff notice. The letter warns the employee of the possibility of layoff and explains the layoff process, including the process for having one’s Civil Service Seniority Date adjusted for various preference claims. Procedures for DCAS administration of Preferred Lists are also addressed in the At Risk Letter. Agencies must use the language of

the DCAS At Risk Letter; agencies cannot modify the language in the DCAS At Risk Letter without approval. To account for changes in Preliminary Seniority Lists, agencies are strongly encouraged to prepare At Risk Letters for more employees than are scheduled for layoff.

2. Preference Claim Forms

At the same time that At Risk Letters are issued to permanent/probationary employees, agencies must provide these employees with the Preference Claim form (DP-323) for its completion (see Appendix D-1). It can be used to claim veterans related preference, as well as blindness. Provisional employees are not to be given these claim forms.

For each permanent/probationary competitive employee in the layoff title, or for as many employees in the title as have been designated by DCAS, the agency must submit a completed original Preference Claim form (DP-323), a copy of the employee's DD-214, evidence of the employee's current address, and, where applicable, the employee's disability certificate and marriage certificate to DCAS' Bureau of Civil Service Administration. Failure by the employee to submit such forms will result in forfeiture of veteran's rights. Because preference can only be provided to an employee who is a New York

State resident at the time of layoff, special attention should be paid to verifying New York State residency at the time of layoff, particularly when the employee has submitted a recent change of address or the employee has an out-of-state address on file with the agency. The agency should retain one copy of each completed claim form. Any preference actually claimed by the employee must be entered into the AMS system (see Appendix D-3). For permanent/probationary competitive employees, these forms must be returned by the layoff agency to DCAS with the updated Preliminary Seniority Lists within specified time requirements. In addition, agencies need to submit to DCAS proof of blindness (Certificate of Blindness issued by the State Commission for the Blind). Agencies should ensure that they use the most recent versions of all forms referenced in this manual, by referring to the APO Portal.

3. Layoff/Termination Letter

Permanent/probationary employees must be given a Layoff/Termination Letter. This letter informs employees of their actual layoff date and provides other relevant information (See Appendix C-4).

E. Transfer in Lieu of Layoff ("Special Transfer Lists")

Before employees can be laid off or bumped, transfers to other agencies where provisionals are serving or vacancies can be filled must be considered.

(PRR 6.1.5. - See Appendix A-5) It is imperative that once transfers in lieu of layoffs begin, there be no change in any agency's layoff plans for that title.

1. DCAS will determine whether transfers in lieu of layoffs are possible, in accordance with PRR 6.1.5. This determination is made by reviewing existing positions throughout the City to determine if there are suitable titles with vacant positions or provisionals serving to which employees can be transferred.

Specifically, a Special Transfer List consists of all permanent and/or probationary employees in a title who are about to be laid off. These employees are placed on this list in order of seniority, first permanents and then probationers. (This is the exact opposite order in which these employees' names appear on the seniority lists prepared to determine layoff order.) List numbers for the Special Transfer List are assigned in civil service seniority order.

2. Special Transfer Lists are then certified to other agencies. Appointments from these lists must be made and must be made promptly, and certification dispositions must be returned within two days of certification, since delays in this process will impact upon the ability of other agencies to meet their layoff targets. The "one-in-three" rule does not apply to Special Transfer Lists. Appointments must be made in Special Transfer List number order from those willing to accept transfer. In general, agencies are not permitted to conduct medical/drug testing or perform criminal background investigations (i.e., fingerprint processing) on eligibles appointed from Special Transfer Lists.
3. Provisionals who are replaced through the certification of a Special Transfer List are not considered to have been "terminated due to budgetary constraints" and no 30-day notice is required. Additionally, as in other instances where civil service lists are certified to replace provisional employees, there is no prescribed order for the replacement of the provisionals. It is strongly suggested that Agency Personnel Officers consult with their General Counsels when decisions need to be made with respect to which provisionals to replace. When making such decisions agencies, should also keep in mind that replacing a provisional employee who holds a permanent leave line, rather than with a pure provisional, will yield no reduction in headcount and may require a secondary layoff in the permanent title.
4. Transferred probationary employees must complete the remainder of their probationary period in the new agency.
5. Employees who are transferred in lieu of layoff must be transferred at their current salary even if the provisional employee being replaced was receiving a lower salary. (This does not apply, however, if the

salary of the employee being transferred exceeds the maximum for the new position. In that case, the employee would receive the maximum salary for the new position.) An employee who declines an offer to transfer in lieu of layoff must sign Form DP-2190 (Appendix D-2). Employees who decline the transfer or fail to report or fail to respond may be bumped down or laid off and placed on a Preferred List.

6. Special Transfer Lists have precedence over all other types of lists except Preferred Lists and certain Special Military Lists created prior to the establishment of the Special Transfer Lists.

F. Retirement

Employees identified for layoff should be instructed to contact their respective retirement systems prior to their layoff date regarding their rights with respect to retirement, vesting and other pension questions. If qualified under the employee's pension plan, a laid off employee may subsequently choose to retire by filing the appropriate forms with their retirement system. Where such a permanent/probationary competitive employee retires on or following suspension or demotion, he/she will remain on a Preferred List. Employees who retire prior to the date of layoff or demotion do not have Preferred List rights (since they will not have been laid off).

G. Summary of Actions to be Taken: Role of Layoff Agency and DCAS

Following is the typical order of actions to be taken. However, some of the actions may occur simultaneously.

Agency Role:

1. Determine the titles and number of employees to be affected by layoffs based on OMB budget reduction figure.
2. Notify DCAS, OLR and OMB as to titles, positions, and employees identified for layoff.
3. Input layoff information into AMS.
4. Distribute At Risk Letters and preference claim forms to employees as required.
5. Review and update the preliminary seniority lists.
6. Forward preference claim forms and required documentation to DCAS.
7. Schedule special transfers.

8. Annotate and return final seniority lists.
9. Provide information regarding layoffs to employees.
10. Prepare and distribute layoff and/or termination letters.
11. Enter data into AMS and payroll layoffs, bumping, transfers and terminations from provisional lines and retirements by entering the appropriate reason code in the HR/payroll system (See Appendix D-3).

DCAS' Role

1. Prepare and forward the Preliminary Seniority Lists for the designated number of employees, showing their seniority dates.
2. Investigate claims for preference, and if verified, make adjustments to the seniority dates of affected permanent/probationary competitive class employees. Similarly, make adjustments based upon the corrected Preliminary Seniority Lists from agencies
3. Upon completion of adjustments, compile revised preliminary seniority lists and issue to agencies.

Note: NO employee is to be advised either orally or in writing of any layoff until OLR has met with the affected union.

Although the agency determines the number of employees to be laid off in each title, seniority lists for permanent/probationary competitive class employees must be compiled by DCAS, since the records of the individual agency may not cover all City employment.

4. Determine agencies where vacancies and/or provisionals exist in layoff titles; contact these agencies to arrange for transfer in of affected employees.
5. Prepare and process certifications and dispositions for special transfer lists.
6. Finalize seniority lists.
7. Authorize layoffs.
8. Establish preferred lists.

V. COMPETITIVE CLASS EMPLOYEES: RIGHT TO DISPLACE (“BUMP”) OTHERS

Permanent and probationary competitive employees who are identified for layoff may have the right to displace (or “bump”) other employees in the same agency (CSL Section 80, subd. 6). (See Note regarding layoff units, Chapter IV, Section A). This means that such employee can displace a permanent/probationary employee with less civil service seniority in a lower title in the direct line of promotion in the same agency. If there are no lower level occupied positions in the direct line of promotion, such employee may displace a less senior permanent/probationary employee in the competitive title which the employee previously held on a permanent basis. Bumping and layoffs are implemented at the same time, but only after all Special Transfer List rights have been exhausted.

55-a employees will be treated as permanent or probationary competitive employees for purpose of bumping. This means that 55-a employees have the right to bump and are subject to being bumped. If there are no lower level occupied positions in direct line of promotion in the same agency, a 55-employee may displace a less senior permanent/probationary employee in the competitive title which the employee previously held pursuant to a 55-a appointment or on a permanent basis.

An employee’s decision not to use bumping rights is irrevocable. An employee who (1) is identified for layoff, (2) has not been transferred to another agency through a Special Transfer List, and (3) does not exercise bumping rights will be laid off and will be placed on the Preferred List for the layoff title.

A. Preparation for Bumping

1. Agencies should conduct an evaluation of the effects of bumping when submitting preliminary layoff plans, and where necessary, request a Preliminary Seniority List for the next lower title in a direct line of promotion to which an employee may be bumped.
2. Agencies should also issue At Risk Letters to permanent/probationary employees in the lower potential bump title after the 30-day notice is issued to the union(s) for either the higher title or the lower title. The need for a new 30-day notice is not triggered by individuals bumping to a lower title.

Note: A new 30-day notice is also not required for secondary layoffs resulting from the return of employees to their permanent competitive leave lines.)

3. DCAS will review the employment history of each employee identified for layoff to determine if that employee has bumping rights.

B. How Bumping Works

If an affected employee chooses bumping, after records confirm the employee's right to bump, that employee must be removed from the layoff title and concurrently be moved into the lower title. The layoff agency must payroll the appropriate action. Provisionals in the lower title must be replaced first, and then, if necessary, probationary competitive employees must be bumped in seniority order. Finally, permanent competitive employees must be bumped, also in seniority order.

An employee who bumps another or an employee who has been bumped will be placed on only one Preferred List, that being for the highest permanent competitive position from which he/she was bumped/laid off.

1. Bumping from Other-Than-Entry-Level Titles

- a. An employee who is being laid off from an other-than-entry-level title may bump another employee having less civil service seniority in the same agency who is serving in the next lower title in a direct line of promotion to the layoff title. For example, an employee laid off in the title of Administrative Staff Analyst may bump an incumbent in the title of Associate Staff Analyst who is either provisional or who is probationary/permanent but has less civil service seniority.
- b. Where there are no occupied positions in the next lower title in a direct line of promotion, the employee may bump to the next title(s) below that is in a direct line of promotion where there are occupied positions. For this purpose, a Final Seniority List for the lower title(s) will be used to determine the order in which permanent/probationary competitive incumbents in the lower title(s) will be laid off or bumped from that position. Should the employee in the higher title have less civil service seniority than the employees in the lower title(s), the employee in the higher title would not be able to bump any of the employees in the lower title(s). Consequently, the employees in the lower title would be retained, and the employee in the higher title would be laid off from that position. Regardless of whether or not an employee bumps to a lower title, that employee will be placed on a preferred list(s) for the highest title held. Permanent/Probationary competitive employees who have been bumped in this manner will be placed on the appropriate Preferred List in order of adjusted civil service seniority.
- c. An employee may bump to a lower title in the direct line of promotion to the layoff title even if the employee never held that lower title.
- d. A permanent/probationary competitive class employee who has been bumped by an employee from a higher title in the manner described above may, in turn, bump an employee in the next lower title in the

direct line of promotion (CSL Section 80, subd. 6).

- e. If there are no lower level occupied positions in the direct line of promotion, then the employee may displace an employee in another occupational group.

2. Bumping to Titles in Other Occupational Groups

- a. An employee identified for layoff from the entry-level title of an occupational group (e.g., Staff Analyst) or from a title for which all lower positions in a direct line of promotion are vacant or have already been bumped (e.g., Associate Staff Analyst identified for layoff in an agency in which there are no incumbent Staff Analysts) must be given the opportunity to bump, within the same agency, any employee who is holding a position in the last title of a different occupational group which the bumping employee held satisfactorily on a permanent competitive basis in the employee's agency.

Note: This does not give the employee bumping rights to all titles previously held. An employee bumping outside of his/her occupational group may bump only to the last competitive title previously held permanently on a satisfactory basis where there are incumbents subject to bumping. If the employee is unable to bump due to insufficient civil service seniority, the employee must be laid off and placed on a Preferred List for the original layoff title and may not bump to another position previously held.

b. Conditions Required for Bumping to Another Occupational Group

Four conditions must exist to enable an employee to bump to a lower title in another occupational group (CSL Section 80, subd. 6):

1. The position being bumped to must be in the competitive class;
2. The position being bumped to must be in a lower salary grade than the one held at the time of layoff;
3. The service of the bumping employee must have been satisfactory while he/she was serving in the previously held title; and
4. The bumping permanent competitive employee must have more adjusted civil service seniority than the permanent employee to be bumped (except that permanent competitive employees will bump probationary competitive employees who have more civil service seniority).

3. Bumping of Leave Lines

An employee whose permanent competitive leave line (e.g. a provisionally appointed Administrative Staff Analyst on leave from a permanent Associate Staff Analyst position) is scheduled for layoff is entitled to the same bumping rights he/she would have received had the employee been actively serving in the title. As long as such a leave line is to remain vacant, an agency may choose to bump the leave line down to the lower occupied title of Staff Analyst (assuming the employee has sufficient civil service seniority). The employee being bumped, although losing his/her permanent position of Staff Analyst, may be able to be retained by filling the bumping employee's Staff Analyst leave line on a temporary basis for the duration of the bumping employee's leave (PRR 5.4.2.(a)).

4. Required Order of Bumping

Once it has been determined that the number of provisionals serving, if any, in a targeted title is insufficient to meet the required number of employees in that title to be laid off, then probationary competitive and permanent competitive employees in that title are subject to layoff.

Permanent employees have first rights to bump, followed by probationary employees. Within each group, employees bump in order of seniority. Employees are bumped in the following order: First provisionals, then probationers and lastly permanents. Within these groups, employees are bumped in the following order: First provisionals in no specified order, then probationers in inverse order of seniority in City service (not just in this title), and lastly permanents also in inverse order of seniority in City service. Note that employees are laid off in the same order that they are bumped, with the least senior employees laid off or bumped first.

Note: For sworn members of the Police Department who were laid off based on seniority in the title or rank in which the layoff occurred, seniority for purposes of bumping is based on permanent appointment in the classified service.

The following charts illustrate layoff and bumping order:

LAYOFF ORDER

Type of Employee	Order of Layoff	Order Within Group
Provisional	1	Any Order
Probationer	2	Inverse Seniority
Permanent	3	Inverse Seniority

ORDER OF EMPLOYEES BUMPING

Type of Employee	Order of Bumping	Order Within Group
Permanent	1	Seniority Order
Probationer	2	Seniority Order

ORDER OF EMPLOYEES BEING BUMPED

Type of Employee	Order Being Bumped	Order Within Group
Provisional	1	Any Order
Probationer	2	Inverse Seniority
Permanent	3	Inverse Seniority

An employee who accepts a position under bumping rights also retains reinstatement rights (i.e., the employee's name remains on the Preferred List for the original civil service layoff title). An employee who is bumped to a lower title will receive the salary in the lower title which the employee would have received had the employee been serving in the lower title during the time the employee was actually serving in the higher layoff title. Any discretionary salary increases received by the employee while serving in the higher title may also, at the agency head's discretion, be included when computing the new salary. In no case, however, may the employee's salary exceed the maximum set for the title to which the employee is bumped. An employee who moves from one position to another by bumping also retains all the balances of annual leave, compensatory time, sick leave, floating holiday, managerial authorized leave days, and blood donor compensatory time which the employee had accumulated. Agencies may reach out to the DCAS Citywide Personnel Policy unit at cpp@dcas.nyc.gov if there are questions about whether other leave balances should be retained.

An employee who bumps to a lower title retains the promotion rights of the higher title as long as the employee's name remains on the Preferred List for the higher title. This includes both eligibility to compete in a promotion exam and to be promoted, even if, at the time of promotion, the employee is still in the lower title (CSL Section 52, subd. 3).

VI. COMPETITIVE CLASS EMPLOYEES: PREFERRED LISTS AND REINSTATEMENT

A. Agency Preferred Lists

The names of all persons on a Final Seniority List for permanent or probationary competitive employees who are laid off or bumped down will be placed on an Agency Preferred List for the layoff title. (Where PRR 6.5.2 provides for layoff units within an agency, there will be Unit Preferred Lists as well as Agency Preferred Lists.) The most senior permanent employees laid off or bumped down will have priority in terms of reinstatement in that agency. Blind employees will receive absolute preference over all others including veterans and are placed at the top of the Preferred List in their title without regard to seniority or probationary status. (CSL Section 85, subd. 7) Within an agency, permanent competitive employees in the same title will be reinstated from a Preferred List before probationary employees.

Note: 55-a employees will be treated as permanent or probationary competitive for purposes of preferred lists.

B. Citywide Preferred Lists

In addition to the individual Agency Preferred Lists for each title, a Citywide Preferred List will be established for each title, with those individuals having the greatest civil service seniority at the top. Probationary employees are at the end of each list and may be reinstated only after all similar Preferred Lists (i.e., Citywide, Agency or Unit) for permanent employees in the same title have been exhausted (CSL Section 81, subd. 4).

Note: 55-a employees will be added to Citywide Preferred Lists and may be certified to positions at other agencies.

C. Priority of Preferred Lists

DCAS will maintain the Layoff Unit Preferred Lists (where applicable), the Agency Preferred Lists and the Citywide Preferred Lists. As vacancies occur in the layoff titles, DCAS will certify names for appointment.

If there are vacancies in the layoff unit from which employees were laid off, then Unit Preferred Lists must be certified and exhausted before Agency Preferred Lists are certified. Similarly, if there are vacancies in the agency from which employees were laid off, Agency Preferred Lists must be certified and exhausted before Citywide Preferred Lists are certified.

D. Use of Preferred Lists (CSL Section 81)

1. Appointments from Preferred Lists must be made and must be made promptly; certification dispositions must be expedited.
2. If the agency has no vacancies, then the Citywide list is certified to other agencies to replace provisional employees or fill vacancies. The “one-in-three” rule does not apply to Preferred Lists. Appointments must be made in list number order from those willing to accept.
3. Preferred Lists are not selectively certified for special skills or licenses.
4. In general, agencies are not permitted to fingerprint or conduct medical/drug tests on Preferred List eligibles. Once they are hired from these lists, these individuals are subject to the terms and conditions of employment in that position.
5. Employees appointed from Preferred Lists will not be charged a processing fee.
6. Permanent competitive employees appointed from a Preferred List will not be required to serve a probationary period; probationary competitive employees need only complete the balance of their probationary periods. (CSL Section 81, subd. 4).
7. Preferred List appointments require OMB approval. When submitting PARs for such actions, agencies must include the name of the provisional employee being replaced, if any.
8. CSL Section 81, subd. 6 provides that an employee reinstated from a Preferred List shall receive at least the same salary such person was receiving at the time of layoff or displacement. An employee laid off from a title covered by the Citywide Agreement, however, who is returned to service in the employee's former title from a Preferred List, shall receive the basic salary rate that would have been received by the employee had the employee never been laid off, up to a maximum of two (2) years of general salary increases (Citywide Agreement Article XVII, Section 2). (The salary of an employee laid off from and returning to a title covered by an agreement other than the Citywide Agreement shall be governed by the relevant salary provisions, if any, of that agreement.) However, in no case shall an employee be paid less than the minimum salary rate authorized for the title to which the employee is reinstated.
9. The consequences for failure or refusal to accept an offer of employment from a Preferred List depends upon the type of Preferred List from which the offer of employment was made.

- An employee who is certified from a Unit Preferred List and declines an offer of employment from that list will be removed from all Preferred Lists for that title.
- An employee who is certified from an Agency Preferred List and declines an offer of employment from that list will be removed from the Agency Preferred List and the Citywide Preferred List.
- An employee who is certified from a Citywide Preferred List and declines an offer of employment made by an agency other than the one from which the employee was laid off will be removed from the Citywide Preferred List but will remain in the Agency Preferred List and the Unit Preferred List if one exists.

However, if reasons satisfactory to the Deputy Commissioner of DCAS/Human Capital are submitted, such person may be restored to the Preferred List(s).

10. Persons who accept a position from a Preferred List and subsequently resign are not eligible for restoration to the Preferred List. Such individuals may request reinstatement under the Personnel Rules and Regulations to their former permanent/probationary competitive title, but such reinstatement can take place only after the Preferred Lists have been exhausted.
11. If an employee who has retired prior to layoff subsequently applies for reinstatement following layoff, the employee will retain reinstatement rights as defined in the Personnel Rules and Regulations, only after the Preferred Lists and/or Special Transfer Lists for the title are exhausted.
12. An employee performing military duty at the time of the layoff must be added to the required Preferred List. An employee on a Preferred List who is performing military service or who begins military service after placement on a preferred list may be entitled to immediate re-employment if the employee was reached on the preferred list during the period of military service.
13. A Preferred List generally takes precedence over **all** other types of lists except for a Special Military List established pursuant to Section 243(5) and (7-b) of the Military Law, if the Special Military List was established prior to the Preferred List.

Note: Employees who are being laid off must be advised that if they fail to notify DCAS Human Capital of every change of name or address, they may miss an opportunity for return to City service.

VII. STATUS OF EMPLOYEES HOLDING PERMANENT COMPETITIVE LEAVE LINES

Employees who hold permanent competitive leave lines (within their current agency or another agency), and are laid off/terminated from probationary competitive, step-up provisional, non-competitive, labor, exempt class or unclassified positions will return to their permanent competitive leave titles. It is, of course, possible that the title to which such an employee returns will also be targeted for layoffs. In such cases, the same procedures identified above will apply.

In those cases where the employee is returned to his or her permanently held competitive title, the employee will receive a salary equal to that which would have been received had the employee served in the lower title all along. Any discretionary salary increases received by the employee while serving in the step-up provisional, non-competitive, labor or exempt class position may also, at the agency head's discretion, be included when computing the employee's leave line salary.

Note: For guidelines regarding adjustment of salaries for managers who have been demoted/reassigned to non-managerial titles or reassigned to lower assignment levels within the Pay Plan for Management Employees refer to Personnel Services Bulletin No. 320-2.

As noted above, if a permanent competitive leave title is also affected by layoffs, this must be processed as a separate layoff, although it may occur simultaneously with the layoff from the probationary competitive or nonpermanent title. Whether an employee is actively serving in a probationary competitive or nonpermanent title on leave from his/her permanent competitive leave line or on leave without pay (e.g., Child Care Leave), he/she must be accorded all layoff rights that the permanent competitive status entitles him/her for layoff from the permanent competitive leave title.

It is entirely possible for an employee to be laid off from a permanent competitive leave title but be retained in a nonpermanent title. For a provisional step-up, this effectively changes the employee's status to a pure provisional. Conversely, an employee may be laid off/terminated from the nonpermanent title but retained in the permanent competitive title, thus, resulting in a return by the employee to the permanent competitive title.

VIII. NON-COMPETITIVE AND LABOR CLASS EMPLOYEES: LAYOFF PROCEDURES

Except with respect to certain veterans, military personnel and exempt volunteer firefighters, the Civil Service Law does not govern the layoff rights of employees serving in non-competitive class titles. Generally, the layoff rights of non-competitive class employees come from employees' collective bargaining agreements. Because the Citywide Agreement covers the great majority of non-competitive employees in represented titles, this manual will focus on the layoff rights and procedures in the Citywide Agreement. DCAS will work separately with agencies in the few instances where layoffs may occur in represented non-competitive titles not covered by the Citywide Agreement.

Similarly, all but a very few labor class titles are covered by the Citywide Agreement; consequently, DCAS will also work separately with agencies in the few instances where layoffs may occur in labor class titles not covered by the Citywide Agreement.

A. Required Order of Layoff

Where an agency's budget reduction plan includes the elimination of non-competitive and labor class positions, it is the obligation of the agency:

- to notify DCAS, OLR and OMB as to the titles and number of positions;
- to prepare a preliminary list of employees serving in titles selected for layoff; and
- to enter the appropriate information into AMS.

Thereafter, the agency is required to assist DCAS in determining the final order in which individuals in these titles are to be laid off/terminated.

1. Non-competitive Employees

Non-competitive employees whose titles are covered by the Citywide Agreement are laid off in inverse order of their Seniority Date. Seniority is determined by the date of their original appointment to the agency in the layoff title. (See Section B below.)

Note: Non-competitive employees whose titles are not covered by a collective bargaining agreement with layoff rights have no prescribed layoff order. It is, however, strongly suggested that Agency Personnel Officers consult with their General Counsels when decisions need to be made with respect to unrepresented non-competitive employees. Additionally, pursuant to CSL Section 86, employees in the non-competitive class, including unrepresented non-competitive employees, who qualify as veterans or exempt volunteer firefighters have the right to transfer to another similar vacant position at the same salary. Non-competitive employees performing military duty may request to be added to a Military Reemployment List within 90 days of termination of military duty.

Employees appointed non-competitively to competitive class titles pursuant to PRR 3.2.10. (i.e., non-competitive workers appointed pursuant to Section 55-a of the New York State Civil Service Law) will be treated as competitive employees for the purpose of layoff seniority. Employees appointed non-competitively to competitive titles pursuant to PRR 3.2.11. (i.e., service outside the City of New York where the employee is a resident of such locality) will be treated as non-competitive employees for purposes of layoffs.

Non-competitive employees serving in titles of limited duration receive no preference in the order of layoff and have no recall rights. However, such employees are covered by Section 86 of the Civil Service Law (Veterans and Exempt Volunteer Firefighters Transfer Rights) and may be covered by Section 243(12) of the Military Law (Military Reemployment Rights).

Veterans and exempt volunteer firefighters do not get any additional rights in terms of order of layoff beyond transfer list rights.

Non-competitive employees have no bumping rights.

2. Labor Class Employees

Labor class employees whose titles are covered by the Citywide Agreement are laid off in inverse order of their Seniority Date. Seniority is determined by the date of their original appointment to the agency in the layoff title. However, an attempt must be made to secure a position prior to layoff for those labor class employees who qualify as veterans or exempt volunteer firefighters (CSL Section 86).

Note: Labor class employees whose titles are not covered by a collective bargaining agreement with layoff provisions (such as City Laborer) are laid off in inverse order of the date of their original appointment on a permanent basis in the classified service of the City of New York (PRR 6.5.5).

Labor class employees serving in titles of limited duration which are covered by the Citywide Agreement (or other collective bargaining agreement with similar layoff provisions) receive no preference in the order of layoff and have no recall rights. However, such employees are covered by Section 86 of the Civil Service Law (Veterans and Exempt Volunteer Firefighters' Transfer Rights) and may be covered by Section 243(12) of the Military Law (Military Reemployment Rights).

Veterans and exempt volunteer firefighters do not get any additional rights in terms of order of layoff beyond transfer list rights.

Labor class employees have no bumping rights.

B. Seniority Date

1. What is the Seniority Date?

For non-competitive and labor class titles covered by the Citywide Agreement, the employee's Seniority Date is based upon "title seniority;" that is, the date of original appointment to the non-competitive or labor class title in the layoff agency followed by continuous service up to the date of layoff.

2. Continuous Service

Non-competitive and Labor Class employees will be deemed to have continuous service if they were terminated from their non-competitive or labor class title and were reappointed to that same non-competitive or labor class title in the same agency within one year thereafter.

A period of authorized leave-of-absence without pay or any period during which an employee is suspended from the employee's position due to layoff shall not constitute an interruption of continuous service for purposes of calculating layoff seniority. (See Appendix A-1)

3. How are Seniority Ties Broken?

When employees have the same title entry date in the layoff agency, ties in seniority are broken first by City Start Date. Any remaining ties will be broken by a sequence of the number derived from the last five and then the first four positions of the Social Security number, with the lowest number receiving the greatest seniority.

C. Layoff Units

An agency can request that the layoff unit for non-competitive and labor class employees be a unit of appropriation or other clearly identifiable subdivision of the agency instead of the entire agency. Such designation, however, is subject to approval by DCAS.

D. Required Letters and Forms

1. At Risk Letter

The layoff agency must distribute the At Risk Letter (Appendix C-2) to all non-competitive and labor class employees who are deemed at risk for layoff immediately following issuance of the 30-day notice to the union(s) by OLR. The At Risk Letter is not a layoff notice. The letter warns the employee of the possibility of layoff and explains the layoff process, including the attempt to secure a similar vacant position prior to layoff for those non-competitive and labor class employees who qualify as veterans or exempt volunteer firefighters.

Agencies must use the language of the DCAS At Risk Letter; agencies cannot modify the language in the DCAS At Risk Letter without approval. To account for changes in seniority lists, agencies should prepare At Risk Letters for more employees than are scheduled for layoff.

2. Preference Claim Forms

At the time that At Risk Letters are issued to non-competitive and labor class employees, agencies must provide these employees with the Preference Claim form (DP-323) for its completion (see Appendix D-1).

For each non-competitive and labor class employee in the layoff title, or for as many employees in the title as have been designated by DCAS, the agency must submit a completed original Preference Claim form (DP-323), a copy of the employee's DD-214, evidence of the employee's current address, and, where applicable, the employee's disability certificate and marriage certificate to DCAS' Bureau of Civil Service Administration. Failure by the employee to submit such forms will result in forfeiture of veteran's rights. Because preference can only be provided to an employee who is a New York State resident at the time of layoff, special attention should be paid to verifying New York State residency at the time of layoff, particularly when the employee has submitted a recent change of address or the employee has an out-of-state address on file with the agency. The agency should retain one copy of each completed claim form. **Any preference actually claimed by the employee must be entered into the AMS system** (see Appendix D-3). For non-competitive and labor class employees, these forms must be returned by the layoff agency to DCAS with the updated preliminary seniority lists within specified time requirements. Agencies should ensure that they use the most recent versions of all forms referenced in this manual, by referring to the APO Portal.

3. Layoff/Termination Letter

Non-competitive and labor class employees must be given a Layoff/Termination Letter. This letter informs employees of their actual layoff date and provides other relevant information (See Appendix C-3).

E. Citywide Military Reemployment, Transfer, Agency and Citywide Recall Lists and Citywide Preferred Lists

A laid off non-competitive or labor class employee may be recalled to the employee's former position from any of the lists described below. Such employees may have recall/transfer/preferred list rights (within the same jurisdictional class) from these lists:

- Citywide Military Reemployment Lists for Non-competitive/Labor Class Employees (New York Military Law Sections 243.12, 243.13 and 243.14)
- Citywide Transfer Lists for Non-competitive/Labor Class employees who are Veterans and/or Exempt Volunteer Firefighters (CSL Section 86)
- Agency Non-competitive Recall Lists (Citywide Agreement, Article XVII)
- Citywide Labor Class Recall Lists (Citywide Agreement, Article XVII)
- Citywide Labor Class Preferred Lists (PRR 6.5.5) – one year for City Laborer.

Note: Some non-competitive employees may not be covered by any of the above lists.

1. Citywide Military Reemployment Lists (New York Military Law Section 243, subd.12)

Under New York Military Law Section 243, subd.12, all non-competitive and labor class employees whose positions are eliminated prior to termination of military service may request to have their names placed on a Citywide Military Reemployment List. If an employee's position has been eliminated or is no longer in existence, the employee's agency must notify DCAS both at the time of the elimination of the position (that is, at the time of layoff) and immediately upon the employee's return to work. The agency should instruct such employees to complete and submit a Preference Claim form (DP-323) along with a copy of the employee's DD-214, evidence of the employee's current address to DCAS within 90 days after termination of military duty.

Agencies should immediately notify DCAS' Bureau of Civil Service Administration of any employee identified for layoff who is performing US armed forces military duty.

If qualified, the employee will be placed on a Citywide Military Reemployment List. This is a four-year Citywide list (from the date of termination of military duty) administered by DCAS with priority over all other Non-competitive/Labor Class lists. Appointments from this list are without regard to seniority. Appointments shall be to the same

or similar positions in the same title and status (i.e., full-time labor class employees will be considered only for full-time positions in the labor class; full-time non-competitive class employees will be considered only for full-time positions in the non-competitive class).

2. Citywide Transfer Lists (CSL Section 86)

Under Civil Service Law Section 86, labor class and many non-competitive employees identified for layoff who are veterans (as defined by CSL Section 85) or exempt volunteer firefighters have rights to be placed on a Citywide Transfer List. These individuals have preference rights to similar vacant positions in the non-competitive or labor class in other agencies prior to and following layoff.

If a qualified veteran or exempt volunteer firefighter is identified for layoff, every effort must be made to transfer such individual to a similar position where a vacancy exists. If such individual is transferred prior to the elimination of his/her position, such person would not be laid off and therefore his/her name will not appear on any recall list (discussed below). However, if such person is laid off prior to such transfer, the employee's name would appear on the applicable recall lists.

The Citywide Transfer List, which is administered by DCAS, has priority over Agency Recall Lists for non-competitive titles, the Citywide Recall List for labor class titles, and the Citywide Labor Class Preferred List. This preference applies to all applicable non-competitive and labor class employees, whether or not covered by a collective bargaining agreement.

Prior to recall of employees or new hires to non-competitive or labor class titles, agencies must contact the Civil Service Transactions Unit at DCAS to ascertain whether there are eligibles from similar titles on the Citywide Transfer List. In designating similar titles, DCAS will consider salary, duties, and qualifications for positions of like category only (i.e., non-competitive titles for non-competitive positions; labor class titles for labor class positions).

Where multiple positions of such non-competitive/labor class veterans or exempt volunteer firefighters are eliminated, and a lesser number of similar vacant positions exist, **transfer to such positions shall be in the order of the incumbents' seniority based upon continuous service commencing from the date of their original permanent appointment in the classified service.** Also see "What is Civil

Service Seniority Date” on page 15. The classified service includes the competitive, non-competitive, labor, and exempt classes.

Note: For non-competitive titles covered by the Citywide Agreement, the seniority date to determine layoff order is based upon Article XVII of the Citywide Agreement. Therefore, this date may be different from the seniority date to determine transfer order of veterans and exempt volunteer firefighters.

3. Agency Non-competitive Recall Lists

Non-competitive employees who are in titles covered by the Citywide Agreement and who are laid off from such titles will have their names placed on applicable Agency Recall Lists. Agency Recall Lists for non-competitive titles remain in existence for a maximum of four years from the date of layoff/termination. Employees who have completed probation will be recalled prior to those who have not completed probation. Probationers will be required to complete their probationary period upon recall.

4. Citywide Labor Class Recall Lists

The names of labor class employees who are in titles covered by the Citywide Agreement and have been laid off will be placed on a Citywide Labor Class Recall List which will be forwarded to agencies to fill appropriate vacancies. This list may exist for up to four years.

F. Procedures Applicable to all types of Reemployment/Transfer/Recall Lists

When an agency has budget approval to fill a position in a recall list title, the agency requests the recall list from DCAS. Upon receipt of the recall list the hiring agency contacts candidates in seniority order. Agencies should summon candidates by letter. The call-in letters must include a call-in date, fields for the employee to decline the position, employee signature, date, and a statement outlining the employee's rights. Agencies must update, sign and return the Recall List and the Declination Letters to DCAS promptly upon making each hire and as declinations occur. The Civil Service Transactions Unit in DCAS will then forward the names of all individuals which are removed from these lists to the Unemployment Insurance Unit to review the employee's initial or continuing claim for unemployment insurance benefits.

The “one-in-three” rule does not apply to any of these lists. Appointments must be made in list number order from those willing to accept.

The following actions on the part of the employee will result in his/her name

being removed from the list from which he/she was called: appointment, declination of an offer of appointment, or failure to report for a job interview.

DCAS Human Capital may, upon a showing of good cause, restore the name of an employee whose name has been removed from any of these lists. Requests must be submitted to askcst@dcas.nyc.gov and must state the reason for the previous failure or refusal to accept transfer/appointment.

In general, agencies are not permitted to conduct medical/drug tests or perform criminal background investigations (i.e., fingerprint processing) prior to transfer or appointment of individuals from Layoff, Transfer, or Recall Lists.

Employees appointed from these lists will not be charged a processing fee.

A non-competitive or labor class employee shall receive at least the same salary the employee was receiving at the time of layoff if covered by the Citywide Agreement, Section 86 of the New York State Civil Service Law, or PRR 6.5.5. (The salary of an employee laid off from and returning to a title covered by an agreement other than the Citywide Agreement shall be governed by the relevant salary provisions, if any, of that agreement.)

Note: Employees who are being laid off must be advised that if they fail to notify DCAS/Human Capital's Civil Service Transactions Unit at askcst@dcas.nyc.gov of every change of name or address, they may miss an opportunity for appointment.

G. Retirement

Employees identified for layoff should be instructed to contact their respective retirement systems prior to their layoff date regarding their rights with respect to retirement, vesting and other pension questions. If qualified under the employee's pension plan, a laid off employee may subsequently choose to retire by filing the appropriate forms with their retirement system. Where such a non-competitive or labor class employee retires on or following layoff/termination, he/she will remain on a Recall List. Employees who retire prior to the date of layoff/termination do not have Recall List rights (since they will not have been laid off).

IX. PAYROLLING LAYOFFS, BUMPING, TRANSFERS, AND REINSTATEMENTS

Once agencies have written DCAS approval for layoffs/terminations, they must enter the appropriate transaction into NYCAPS or other payroll system for non-NYCAPS agencies. The following payroll transaction reason codes for all agencies are to be used when laying off or bumping employees:

- PØ8 - Used to terminate (layoff) provisional, exempt, non-competitive and unclassified employees due to a reduction in force.
- PØ9 - Used to terminate (layoff) permanent competitive employees and those labor class employees not covered by a collective bargaining agreement with layoff provisions, due to a reduction in force.
- P11 - Used to terminate (layoff) labor class employees covered by a collective bargaining agreement with layoff provisions, due to a reduction in force.
- C1Ø - Used to bump a permanent competitive employee to a previously held lower title as a result of layoff from the higher title in order to avoid a layoff.
- IØ9 - Used to retire a permanent/probationary competitive employee scheduled for layoff who retires on or after the layoff date.

The following reason codes are to be used for Special Transfers (moving permanent competitive employees identified for layoff in one agency to another agency). Agencies sending or receiving Special Transferees will get specific instructions from DCAS' Office of List Management and Audit.

- T74 - Used by the receiving agency to put transferees on the payroll when they transfer in to avoid a layoff in the sending agency.
- T75 - Used by the sending agency to take transferees off the payroll when they transfer out to avoid layoff.

Agencies must enter the layoff date in the AMS system for all employees who have been laid off. If the employee was not laid off (because he/she received a special transfer to another agency or was not reached for layoff), the agency must enter code "NLO" into the AMS system.

The following reason codes are to be used for transferring or reappointing those non-competitive and labor class employees who are veterans and/or exempt volunteer firefighters, and therefore are protected under Section 86 under New York State Civil Service Law.

- T6Ø - Used by the receiving agency to put non-competitive transfers on the payroll when they transfer in to avoid layoff or are transferred (reinstated)

after layoff, pursuant to CSL Section 86.

- T61 - Used by the sending agency to take non-competitive employees off the payroll when they transfer out, pursuant to CSL Section 86.
- T62 - Used by the receiving agency to put labor class transfers on the payroll when they transfer in to avoid layoff or are transferred (reinstated) after layoff, pursuant to CSL Section 86.
- T63 - Used by the sending agency to take labor class employees off the payroll when they transfer out, pursuant to CSL Section 86.

Agencies with employees covered by collective bargaining agreements, whose unions have entered into a separate agreement to furlough these employees in lieu of layoff, should use the following reason codes:

- L9Ø - Used when there is a definite date of return to employment with the agency.
- P9Ø - Used when there is no definite date of return.

If the agency has a vacancy at a later date in a title which has a Preferred List, that list will be certified to fill the vacancy. The following reason code is used to return previously laid off permanent/probationary competitive and labor class employees to City employment when they are reappointed to their permanent title (or title deemed appropriate by DCAS) from a Preferred List:

- N19 - Used to reinstate (put on payroll) all laid off permanent/probationary competitive class employees and those labor class employees not covered by a collective bargaining agreement with layoff provisions.

Vacancies for non-competitive and labor class titles for which recall lists are in existence must be filled from the appropriate recall list. The following reason codes should be used only for non-competitive/labor class employees who were previously laid off and who appear on a recall list:

- N32 - Used to reinstate (put on payroll) laid off non-competitive employees from a recall list.
- N92 - Used to reinstate (put on payroll) laid off labor class employees from a recall list.

These codes are to be used only under specific direction from DCAS:

- E9Ø - Reassign from non permanent as a result of layoff.
- O9Ø - Non permanent termination (indirect result of layoff).

X. **GUIDELINES FOR COMMUNICATING INFORMATION TO EMPLOYEES LAID OFF OR TERMINATED DUE TO BUDGETARY CUTBACKS**

The following guidelines are intended to assist agencies with their efforts in communicating layoff information to their employees. It contains some ideas which agencies should consider when planning layoff notifications.

It is important to understand that many employees affected by layoffs are likely to have difficulty dealing with the process. Agencies undergoing major changes need to address the emotional needs and reactions of their employees. The way agencies treat employees has a big impact both on employees who are laid off and on their coworkers who continue to work for the agency; it can also affect the attitude of laid off employees upon reinstatement to their positions in the future.

A. **THE ROLE OF THE AGENCY LAYOFF LIAISON OR DESIGNEE**

Managers and supervisors who will be responsible for communicating the layoff message to affected employees should be briefed on how to deal with these employees and anticipate their reactions to the news. Some employees may feel bitter and resentful or afraid and concerned that they may not find a new job. Anger, shock, denial, and disbelief are often the initial emotional stages experienced during this period. These are normal reactions. Acceptance should be the end point of the process of dealing with the emotions aroused by loss. In order to accept a loss, a person must first work through all the feelings provoked by it. By planning ahead, agencies can successfully avoid or defuse many of the potentially devastating emotional reactions suffered by employees who are affected by their termination.

B. **ORIENTATION FOR MANAGERS/SUPERVISORS**

Employees responsible for discussing layoffs with affected employees should be carefully prepared. The following actions should be taken in orienting these managers and supervisors:

1. Review packages of handout materials with the managers and supervisors. Make sure each person responsible for meeting with a laid off employee has received and understands all materials. Encourage managers/supervisors to ask questions they may have relating to methods of handling this difficult responsibility.
2. Be prepared to anticipate the who, where, when, why, etc. questions an employee may ask and be sure all managers and supervisors know where the answers and/or resources may be found.

3. Schedule debriefing discussions with managers or supervisors to be held after their first conversations with laid off employees to ascertain whether additional preparation or information is needed.
4. Contact the City's Employee Assistance Program (EAP) if suggestions are needed on how to handle specific problems. The EAP is a natural and logical resource for the management of employee reactions and can be a tremendous asset to the staff, even after separation (see Appendix E-5 for agency EAP Liaisons and telephone numbers).
5. Prepare an agency "script" and procedures for conduct of conversations with laid off employees on the day of notification. Be sure to include the reason for the layoff decision in this material. Also advise the employee to notify his/her agency and DCAS in writing of any change of address.
6. Consider the necessity of limiting access to agency computers by employees who are at risk for layoff.

C. PREPARATION FOR MEETING WITH EMPLOYEES TO BE LAID OFF

1. If possible, unit heads and the employee's immediate supervisor should be present during the separation interview
2. Have phone numbers ready for medical, security, or transportation emergencies.
3. Allow enough time to deal with all issues.
4. Have the employee's personnel file, job performance evaluation, leave balances and pension information available and review them, if necessary.
5. Be prepared with referral names and telephone numbers for support services available to laid off employees (e.g. Employee Assistance Program).

D. MEETING WITH EMPLOYEES IDENTIFIED FOR LAYOFF/TERMINATION

This checklist of Do's and Don'ts has been developed in order to assist in dealing with employees during the termination process:

DO'S

1. Keep remarks brief.

2. Inform the employee of his/her last day of work.
3. Provide the employee with the Layoff Letter together with the other documents listed in Section E below. Some of these documents may have been provided to the employee at the time of issuance of At Risk Letters.
4. Advise employees to report to NYCERS or appropriate pension system to determine their rights with respect to retirement (see Appendix E-8).
5. On the last day of work, collect the employee's ID card, keys and any other City property which has been issued to the employee.
6. Encourage the employee to make use of the services being provided in the employee's efforts to secure other employment.
7. Emphasize the following:
 - The decision is final and has been reviewed by top management.
 - Let the employee understand that he/she has not been singled out - that this was not a personal decision.
8. Verify the employee's current mailing address and, if necessary, make any changes in NYCAPS.
9. Provide DCAS contact information for changing name/address after layoff.

DON'TS

1. Get involved in any discussions of any type of motivations.
2. Interrupt or talk over or down to the employee.
3. Respond to the employee's wish to see a lawyer. (It is, of course, the employee's prerogative to meet with an attorney, but an employee does not have a right to have an attorney at this separation meeting).
4. Discuss the situation of any other employees.
5. Discuss this employee's situation with anyone else.
6. Make reference to possible unsatisfactory performance.

7. Become defensive.

E. MINIMUM INFORMATION TO BE PROVIDED TO EMPLOYEES

A package of materials should be prepared for each employee, which should contain at least the following information:

1. COBRA Package - "Notice of Rights: When Your Health Insurance Benefits Terminate," "COBRA Premiums," "Welfare Fund Administrators," and "The City of NY Employee Benefits Program COBRA Continuation of Coverage Application Form." These materials may be obtained through each agency personnel office. Employees must sign for the COBRA package or it must be sent to the employee by certified mail.
2. Unemployment Insurance - Information booklet, list of offices. Employees may also obtain these forms by contacting the local unemployment office nearest their home.
3. Leave Balance Information. This information may be obtained through each agency's personnel officer, on CityTime, or through NYCAPS.
4. Employee Assistance Program brochure.
5. Deferred Compensation Redemption Information.
6. New York City Employees' Retirement System information (or other retirement system, as appropriate).

XI. CONCLUSION

Although this manual is mainly concerned with the mechanics of layoffs as required by Law, the Personnel Rules and Regulations of the City of New York, and the Citywide Agreement, of significant importance is the human relations aspect of what inevitably will be a traumatic experience for those employees who may be affected by layoffs. It is essential that agencies communicate directly with their employees concerning the possibility of a layoff, but only after the Office of Labor Relations notifies the affected unions. Candid timely communication from the agency will lessen the negative impact caused by rumors. It will also give employees a better opportunity to secure documentation necessary to establish such legal entitlements as veteran's preference, etc., and permit better planning for the future by both the agency and the employee when the layoff actually takes place.

Any agency questions or requests for technical assistance concerning any aspect of layoffs should be addressed to the appropriate contact at the Bureau of Civil Service Administration of the Department of Citywide Administrative Services. It is essential that all employees be given every right to which they are entitled.

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APPENDIX A

NEW YORK CIVIL SERVICE LAW

TITLE C – ABOLITION OF POSITIONS; SUSPENSION; DEMOTION

Sec.

80 - Suspension or demotion upon the abolition or reduction of positions.

80-a - Suspension or demotion upon the abolition or reduction of non-competitive class positions in the state service.

81 - Preferred lists; certification and reinstatement therefrom.

§ 80. Suspension or demotion upon the abolition or reduction of positions

1. Suspension or demotion. Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, positions in the competitive class are abolished or reduced in rank or salary grade, suspension or demotion, as the case may be, among incumbents holding the same or similar positions shall be made in the inverse order of original appointment on a permanent basis in the classified service in the service of the governmental jurisdiction in which such abolition or reduction of positions occurs, subject to the provisions of subdivision seven of section eighty-five of this chapter; provided, however, that the date of original appointment of any such incumbent who was transferred to such governmental jurisdiction from another governmental jurisdiction upon the transfer of functions shall be the date of original appointment on a permanent basis in the classified service in the service of the governmental jurisdiction from which such transfer was made. Notwithstanding the provisions of this subdivision, however, upon the abolition or reduction of positions in the competitive class, incumbents holding the same or similar positions who have not completed their probationary service shall be suspended or demoted, as the case may be, before any permanent incumbents, and among such probationary employees the order of suspension or demotion shall be determined as if such employees were permanent incumbents.

1-a. NOT APPLICABLE

1-b. Notwithstanding the provisions of subdivision one of this section, employees of secure detention facilities in the city of New York and of the alternatives to secure detention facilities program in such city who are performing functions which were assumed by the department of social services of the city of New York on the tenth day of November, nineteen hundred seventy-one and who, upon such assumption were transferred to said department, shall be subject to the following procedure. Where, because of economy, consolidation or abolition of function, curtailment of activities or otherwise, positions in the competitive class are abolished, or reduced in rank or salary grade, suspension or demotion, as the case may be, among incumbents holding the same or similar positions shall be made in the inverse order of original appointment on a permanent basis in the classified service in the service of the governmental jurisdiction in which such abolition or reduction of positions occurs, subject to the provisions of subdivision seven of section eighty-five of this chapter; provided, however, that if any person so employed and so transferred was employed on a

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permanent basis in such a facility or such program prior to the thirtieth day of December, nineteen hundred sixty- seven, for purposes of this subdivision regarding priority of retention and for no other purpose, the date of original appointment of any such person shall be deemed to be the date such permanent employment commenced prior to the said thirtieth day of December, nineteen hundred sixty-seven.

1-c. NOT APPLICABLE

1-d. NOT APPLICABLE

1-e. NOT APPLICABLE

1-f. Notwithstanding the provisions of subdivision one of this section, the sworn members of any police agency as defined in section eight hundred thirty-five of the executive law, other than police agencies referred to in subdivisions one-a through one-e of this section shall be subject to the following procedure. Where, because of economy, consolidation or abolition of functions, curtailment of activities or otherwise, positions in the competitive class are abolished or reduced in rank or salary grade, suspension or demotion, as the case may be, among incumbents holding the same or similar positions shall be made in the inverse order of original appointment on a permanent basis in the grade or title in the service of the governmental jurisdiction in which such abolition or reduction of positions occurs, subject to the provisions of subdivision seven of section eighty-five of this chapter; provided, however, that the date of original appointment of any such incumbent who was transferred to such governmental jurisdiction from another governmental jurisdiction upon the transfer of functions shall be the date of original appointment on a permanent basis in the classified service in the service of the governmental jurisdiction from which such transfer was made.

Notwithstanding the provisions of this subdivision, however, upon the abolition or reduction of positions in the competitive class, incumbents holding the same or similar positions who have not completed their probationary services shall be suspended or demoted, as the case may be, before any permanent incumbents, and among such probationary employees the order of suspension or demotion shall be determined as if such employees were permanent incumbents.

2. Continuous service. Except as otherwise provided herein, for the purposes of this section the original appointment of an incumbent shall mean the date of his first appointment on a permanent basis in the classified service followed by continuous service in the classified service on a permanent basis up to the time of the abolition or reduction of the competitive class positions. An employee who has resigned and who has been reinstated or reappointed in the service within one year thereafter shall, for the purposes of this section, be deemed to have continuous service. An employee who has been terminated because of a disability resulting from occupational injury or disease as defined in the workmen's compensation law and who has been reinstated or reappointed in the service thereafter shall be deemed to have continuous service. A period of employment on a temporary or provisional basis, or in the unclassified service, immediately preceded and followed by permanent service in the classified service, shall not constitute an interruption of continuous service for the purposes of this section; nor

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shall a period of leave of absence without pay pursuant to law or the rules of the civil service commission having jurisdiction, or any period during which an employee is suspended from his position pursuant to this section, constitute an interruption of continuous service for the purposes of this section.

3. NOT APPLICABLE

4. Units for suspension or demotion in civil divisions. Upon the abolition or reduction of positions in the service of a civil division, suspension or demotion shall be made from among employees holding the same or similar positions in the entire department or agency within which such abolition or reduction of positions occurs. In a city having a population of one million or more, the municipal civil service commission may, by rule, designate as separate units for suspension and demotion under the provisions of this section any hospital or institution or any division of any department or agency under its jurisdiction. Upon the abolition or reduction of positions in such service, suspension or demotion, as the case may be, shall be made from among employees holding the same or similar positions in the department wherein such abolition or reduction occurs, except that where such abolition or reduction occurs in such hospital or institution or division of a department designated as a separate unit for suspension or demotion, suspension or demotion shall be made from among incumbents holding the same or similar positions in such separate unit.

4-a. NOT APPLICABLE

5. NOT APPLICABLE

6. Displacement in civil divisions. A permanent incumbent of a position in a civil division in a specific title to which there is a direct line of promotion who is suspended or displaced pursuant to this section, together with all other such incumbents suspended or displaced at the same time, shall displace, in the inverse order of the order of suspension or demotion prescribed in subdivisions one and two of this section, incumbents serving in positions in the same lay-off unit in the next lower occupied title in direct line of promotion who shall be displaced in the order of suspension or demotion prescribed in subdivisions one and two of this section; provided, however, that no incumbent shall displace any other incumbent having greater retention standing. If a permanent incumbent of a position in a civil division is suspended or displaced from a position in a title for which there are no lower level occupied positions in direct line of promotion, he shall displace the incumbent with the least retention right pursuant to subdivisions one and two of this section who is serving in a position in the title in which the displacing incumbent last served on a permanent basis prior to service in one or more positions in the title from which he is suspended or displaced, if: (1) the service of the displacing incumbent while in such former title was satisfactory and (2) the position of the junior incumbent is in (a) the competitive class, (b) the layoff unit from which the displacing incumbent was suspended or displaced, and (c) a lower salary grade than the position from which the displacing incumbent is suspended or displaced; provided,

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however, that no incumbent shall displace any other incumbent having greater retention standing. Refusal of appointment to a position afforded by this subdivision constitutes waiver of rights under this subdivision with respect to the suspension or displacement on account of which the refused appointment is afforded. The municipal civil service commission shall promulgate rules to implement this subdivision including rules which may provide adjunctive opportunities for displacement either to positions in direct line of promotion or to formerly held positions; provided, however, that no such rule shall permit an incumbent to displace any other incumbent having greater retention standing. For the purpose of acquiring preferred list rights, displacement pursuant to this subdivision is the equivalent of suspension or demotion pursuant to subdivision one of this section.

7. NOT APPLICABLE

8. Certain suspensions in cities of one million or more for reasons of economy. Notwithstanding the provisions of any other general or local law, administrative code or ordinance, in cities having a population of one million or more, any member employed in the uniformed or non-uniformed services of such city who was suspended on or after July first, nineteen hundred seventy-five, because of economy measures taken by such city, and who returns to such service, shall be deemed to have been in continuous service in determining seniority and length of service regardless of the duration of such suspension; provided, however, that for retirement purposes, a member receiving such service credit shall pay into the annuity savings fund of the retirement system the amount of the employee contributions required to have been paid into the retirement system for such service, within one year after this subdivision shall have taken effect. For the purposes of this subdivision "uniformed services" shall mean and include any uniformed force or service the members of which are paid in whole or part by such city.

9. NOT APPLICABLE

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§ 81. Preferred lists; certification and reinstatement therefrom.

1. Establishment of preferred lists; general provisions. The head of any department, office or institution in which an employee is suspended or demoted in accordance with the provisions of sections eighty and eighty-a of this title shall, upon such suspension or demotion, furnish the state civil service department or appropriate municipal commission, as the case may be, a statement showing his name, title or position, date of appointment, and the date of and reason for suspension or demotion. It shall be the duty of such civil service department or commission, as the case may be, forthwith to place the name of such employee upon a preferred list, together with others who may have been suspended or demoted from the same or similar positions in the same jurisdictional class, and to certify such list, as hereinafter provided, for filling vacancies in the same jurisdictional class; first, in the same or similar position; second, in any position in a lower grade in line of promotion; and third, in any comparable position. Such preferred list shall be certified for filling a vacancy in any such position before certification is made from any other list, including a promotion eligible list, notwithstanding the fact that none of the persons on such preferred list was suspended from or demoted in the department or suspension and demotion unit in which such vacancy exists. No other name shall be certified from any other list for any such position until such preferred list is exhausted. The eligibility for reinstatement of a person whose name appears on any such preferred list shall not continue for a period longer than four years from the date of separation or demotion. An employee whose name was placed on the preferred list and at the time of such placement was on active duty with the armed forces of the United States, as pursuant to title ten, fourteen or thirty-two of the United States code, shall not be eligible for employment reinstatement for a period longer than four years after the date of termination of military duty.

2. Order of certification of names from preferred lists. Except as hereinafter provided, the names of persons on a preferred list shall be certified therefrom for reinstatement to a vacancy in an appropriate position in the order of their original appointments.

(a) NOT APPLICABLE

(b) Upon the occurrence of a vacancy in an appropriate position in the state service, or in the service of a city having a population of one million or more, the names of persons on the preferred list shall be certified to fill such vacancy in the following order: (1) persons suspended from or demoted in the department in which such vacancy exists, except that where such vacancy exists in a separate suspension and demotion unit, the names of persons suspended from or demoted in such unit, and not those suspended from or demoted in the entire department, shall be certified first; and (2) all other persons on such preferred list.

3. NOT APPLICABLE

4. Certification of probationers from preferred list. Notwithstanding the provisions of subdivisions two and three of this section, no person suspended or demoted prior to the completion of his probationary term shall be certified for reinstatement until the exhaustion of the preferred list of all other eligibles thereon. Upon reinstatement,

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such probationer shall be required to complete his probationary term.

5. Effect of failure or refusal to accept reinstatement. The state and municipal civil service commissions shall adopt rules providing for the relinquishment of eligibility for reinstatement upon failure or refusal to accept reinstatement from a preferred list.

6. Salary upon reinstatement. A person reinstated from a preferred list to his former position or a similar position in the same grade shall receive at least the same salary such person was receiving at the time of suspension or demotion.

7. Notwithstanding any other provisions of this chapter, the civil service department or appropriate municipal commission may disqualify for reinstatement and remove from a preferred list the name of any eligible who is physically or mentally disabled for the performance of the duties of the position for which such list is established, or who has been guilty of such misconduct as would warrant his dismissal from the public service, except that a partially physically handicapped person, who is suspended pursuant to section eighty of this chapter because of lack of work, but who, within six months of the date of his suspension, is certified for reinstatement to any job item having the same physical requirements as the job item from which the person was suspended shall not be disqualified because of his physical handicap unless a medical examination discloses that because his handicap has become greater he would not be able to satisfactorily perform in such job item. No person shall be disqualified pursuant to this subdivision unless he is first given a written statement of the reasons therefor and an opportunity for a hearing at which such reasons shall be established by appropriate evidence, and at which such person may be represented by counsel and present evidence. The civil service department or municipal commission may designate a person to hold such hearing and report thereon.

8. Notwithstanding any other provisions of this chapter, any person may voluntarily remove his or her name from a preferred list by application to the civil service department or appropriate municipal commission.

9. An employee who is eligible to be placed on a preferred list pursuant to this section and who elects, as a member of a public employee retirement system, to retire upon a suspension or demotion, shall be placed on a preferred list and shall be eligible for reinstatement from such list.

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ARTICLE VI—SPECIAL RIGHTS FOR VETERANS AND EXEMPT VOLUNTEER FIREMEN

Sec.

85 - Additional credit allowed veterans in competitive examinations; preference in retention upon abolition of positions.

86 - Transfer of veterans or exempt volunteer firemen upon abolition of positions. 87 - Prohibition against disqualification on account of age or disability.

§ 85. Additional credit allowed veterans in competitive examinations; preference in retention upon abolition of positions.

1. Definitions.

(a) The terms "veteran" and "non-disabled veteran" mean a member of the armed forces of the United States who served therein in time of war, who was honorably discharged or released under honorable circumstances from such service, who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States and who is a resident of the state of New York at the time of application for appointment or promotion or at the time of retention, as the case may be.

(a) [Eff. Nov. 12, 2020. See, also, par. (a) above.] The terms "veteran" and "non-disabled veteran" mean a member of the armed forces of the United States who served therein in time of war, who was honorably discharged or released under honorable circumstances from such service including (i) having a qualifying condition as defined in section three hundred fifty of the executive law, and receiving a discharge other than bad conduct or dishonorable from such service, or (ii) being a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and receiving a discharge other than bad conduct or dishonorable from such service, who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States and who is a resident of the state of New York at the time of application for appointment or promotion or at the time of retention, as the case may be.

(b) The term "disabled veteran" means a veteran who is certified by the United States veterans' administration or a military department as entitled to receive disability payments upon the certification of such veterans' administration or a military department for a disability incurred by him in time of war and in existence at the time of application for appointment or promotion or at the time of retention, as the case may be. Such disability shall be deemed to be in existence at the time of application for appointment or promotion or at the time of retention, as the case may be, if the certificate of such veterans' administration shall state affirmatively that such veteran has been examined by a medical officer of such veterans' administration on a date within one year of either the date of filing application for competitive examination for original appointment or promotion or the date of the establishment of the resulting eligible list or within one year of the time of retention, as the case may be; that at the time of such examination the war-incurred disability described in such certificate was found to exist; and that such disability is rated at ten per centum or more. Such disability shall also be deemed to be in existence at such time if the certificate of such veterans' administration shall state affirmatively that a permanent stabilized condition of disability exists to an extent of ten per centum or more, notwithstanding the fact that such veteran has not been examined by a medical officer of such veterans'

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administration within one year of either the time of application for appointment or promotion or the date of filing application for competitive examination for original appointment or promotion, or within one year of the time of retention, as the case may be. The term "disabled veteran" shall also mean:

(1) A veteran who served in world war I, who continued to serve in the armed forces of the United States after the eleventh day of November, nineteen hundred eighteen, and who is certified, as hereinbefore provided, by the United States veterans' administration as receiving disability payments upon the certification of such veterans' administration for a disability incurred by him in such service on or before the second day of July, nineteen hundred twenty-one.

(2) A veteran who served in world war II, who continued to serve in the armed forces of the United States after the second day of September, nineteen hundred forty-five, or who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, and who is certified, as hereinbefore provided, by the United States veterans' administration as receiving disability payments upon the certification of such veterans' administration for a disability incurred by him in such service on or before the date that world war II is declared terminated.

(2) [Eff. Nov. 12, 2020. See, also, subpar. (2) above.] A veteran who served in world war II, who continued to serve in the armed forces of the United States after the second day of September, nineteen hundred forty-five, or who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service

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(later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable circumstances or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable circumstances or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and who is certified, as hereinbefore provided, by the United States veterans' administration as receiving disability payments upon the certification of such veterans' administration for a disability incurred by him in such service on or before the date that world war II is declared terminated.

(3) A veteran who served during hostilities participated in by the military forces of the United States subsequent to June twenty-seventh, nineteen hundred fifty, and who continued to serve in the armed forces of the United States after the thirty-first day of January, nineteen hundred fifty-five, and who is certified, as hereinbefore provided, by the United States veterans' administration as receiving disability payments upon the certification of such veterans' administration for a disability incurred by him in such service.

(c) The term "time of war" shall include the following wars and hostilities for the periods and based upon the evidence herein set forth:

- (1) World war I, from the sixth day of April, nineteen hundred seventeen, to and including the eleventh day of November, nineteen hundred eighteen.

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(2) World war II, from the seventh day of December, nineteen hundred forty-one, to and including the thirty-first day of December, nineteen hundred forty-six.

(3) Hostilities participated in by the military forces of the United States, from the twenty-seventh day of June, nineteen hundred fifty, to and including the thirty-first day of January, nineteen hundred fifty-five.

Hostilities participated in by the military forces of the United States, from the twenty-eighth day of February, nineteen hundred sixty-one to the seventh day of May, nineteen hundred seventy-five.

(4) Hostilities participated in by the military forces of the United States in Lebanon, from the first day of June, nineteen hundred eighty-three to the first day of December, nineteen hundred eighty-seven, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal.

(5) Hostilities participated in by the military forces of the United States in Grenada, from the twenty-third day of October, nineteen hundred eighty-three to the twenty-first day of November, nineteen hundred eighty-three, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal.

(6) Hostilities participated in by the military forces of the United States in Panama, from the twentieth day of December, nineteen hundred eighty-nine to the thirty-first day of January, nineteen hundred ninety, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal.

(7) Hostilities participated in by the military forces of the United States in the Persian Gulf, from the second day of August, nineteen hundred ninety to the end of such hostilities.

(d) NOT APPLICABLE

(e) The term "time of retention" shall mean the time of abolition or elimination of positions.

2. NOT APPLICABLE

3. NOT APPLICABLE

4. NOT APPLICABLE

5. NOT APPLICABLE

6. NOT APPLICABLE

7. Preference in retention upon the abolition of positions. In the event of the abolition or elimination of any position in the civil service for which eligible lists are established or any position the incumbent of which is encompassed by section eighty-a of this chapter, any suspension, demotion or displacement shall be made in the inverse order

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of the date of original appointment in the service subject to the following conditions: (1) blind employees shall be granted absolute preference in retention; (2) the date of such original appointment for disabled veterans shall be deemed to be sixty months earlier than the actual date, determined in accordance with section thirty of the general construction law; (3) the date of such original appointment for non-disabled veterans shall be deemed to be thirty months earlier than the actual date, determined in accordance with section thirty of the general construction law; (4) no permanent competitive class employee subject to the jurisdiction of the civil service commission of the city of New York who receives an injury in the line of duty, as defined in this paragraph, which requires immediate hospitalization, and which is not compensable through workmen's compensation may be suspended, demoted or displaced pursuant to section eighty of this chapter within three months of the date of his confinement, provided that medical authorities approved by such commission shall certify that the employee is not able to perform the duties of his position; provided further, that such three-month period may be extended by such commission for additional periods not to exceed one year each upon the certification of medical authorities selected by such commission that the employee is, as a result of his injury, still not able to perform the duties of his position. An injury in the line of duty, as used herein, shall be construed to mean an injury which is incurred as a direct result of the lawful performance of the duties of the position. In determining whether an injury was received in the line of duty, such commission shall require the head of the agency by which the employee is employed to certify that the injury was received as a direct result of the lawful performance of the employee's duties; and (5) the spouse of a veteran with one hundred percent service connected disability shall be deemed to be sixty months earlier than the actual date, determined in accordance with section thirty of the general construction law, provided, the spouse is domiciled with the veteran-spouse and is the head of the household. This section shall not be construed as conferring any additional benefit upon such employee other than a preference in retention. Such employee shall be subject to transfer upon the abolition of his function within his agency or department.

7-a. For the purpose of subdivision seven of this section, the terms "date of original appointment" and "date of original appointment in the service" shall mean, for persons subject to subdivisions one-a and one-c of section eighty of this chapter, the date of original appointment on a permanent basis in the grade or title in the service of the governmental jurisdiction in which such abolition or reduction occurs.

8. Penalty for denial of preference in retention. A refusal to allow the preference in retention provided for in this section to any veteran or disabled veteran, or a reduction of his compensation intended to bring about his resignation shall be deemed a misdemeanor, and any such veteran or disabled veteran shall have a right of action therefor in any court of competent jurisdiction for damages and for righting the wrong.

§ 243. Provisions applicable to public employees who are absent on military duty

1. Definitions. As used in this section:

(a) The term "public employee" shall mean an officer or employee holding a position by appointment or employment in the state of New York or in the cities, counties, towns, villages or school districts thereof, or in any other political or civil division of the state or of a municipality, or in any public or special district, or in the service of any public authority, public benefit corporation, commission or board, or in any other branch of the public service.

(b) The term "military duty" shall mean military service in the military, naval, aviation or marine service of the United States subsequent to July first, nineteen hundred forty, or service under the selective training and service act of nineteen hundred forty, or the national guard and reserve officers mobilization act of nineteen hundred forty, or any other act of congress supplementary or amendatory thereto, or any similar act of congress hereafter enacted and irrespective of the fact that such service was entered upon following a voluntary enlistment therefor or was required under one of the foregoing acts of congress, or service with the United States public health service as a commissioned officer, or service with the American Red Cross while with the armed forces of the United States on foreign service, or service with the special services section of the armed forces of the United States on foreign service, or service in the merchant marine which shall consist of service as an officer or member of the crew on or in connection with a vessel documented under the laws of the United States or a vessel owned by, chartered to, or operated by or for the account or use of the government of the United States, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air

Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and (iv) who was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service; or service in police duty on behalf of the United States government in a foreign country, if such person is a police officer, as defined by section 1.20 of the criminal procedure law, and if such police officer obtained the prior consent of his or her public employer to absent himself or herself from his or her position to engage in the performance of such service; or as an enrollee in the United States maritime service on active duty and, to such extent as may be prescribed by or under the laws of the United States, any period awaiting assignment to such service and any period of education or training for such service in any school or institution under the jurisdiction of the United States government, but shall not include temporary and intermittent gratuitous service in any reserve or auxiliary force. It shall include time spent in reporting for and returning from military duty and shall be deemed to commence when the public employee leaves his position and to end when he is reinstated to his position, provided such reinstatement is within ninety days after the termination of military duty, as hereinafter defined. Notwithstanding the foregoing provisions of this paragraph, the term "military duty" shall not include any of the foregoing services entered upon voluntarily on or after January first, nineteen hundred forty-seven and before June twenty-fifth, nineteen hundred fifty; and, on or after July first, nineteen hundred seventy, the term "military duty" shall not include any voluntary service in excess of four years performed after that date, or the total of any voluntary services, additional or otherwise, in excess of four years performed after that date, shall not exceed five years, if the service in excess of four years is at the request and for the convenience of the federal government, except if such voluntary service is performed during a period of war, or national emergency declared by the president.

(c) The term "termination of military duty" shall mean the date of a certificate of honorable discharge or a certificate of completion of training and service as set forth in the selective training and service act of nineteen hundred forty, or a certificate of release or discharge from active duty where an employee (i) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (ii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or and the national guard and reserve officers mobilization act of nineteen hundred forty or, in the event of the incurrence of a temporary disability arising out of and in the course of such military duty, the date of termination of such disability. The existence and termination of such temporary disability, in the case of a public employee occupying a position in the classified civil service or of a person on an eligible list for a position in such service, shall be determined by the civil service commission having jurisdiction over such position and, in the case of a public employee occupying a position not in the classified civil service, shall be determined by the officer or body having the power of appointment

(d) The term "position" shall mean the office or position held by a public employee at the time of his entrance upon military duty.

2. Leave of absence and re-employment. (a) Every public employee shall be entitled to absent himself or herself from his or her position while engaged in the performance of military duty, except for those police officers who are required by paragraph (b) of subdivision one of this section to obtain the prior consent of their public employers before absenting themselves from their positions for military service, who accordingly shall be entitled to absent themselves from their positions only after obtaining such prior consent, and shall be deemed to have a leave of absence for the duration of such military duty. Such public employee shall be reinstated to his position as soon as possible provided he makes application for such reinstatement within ninety days after the termination of his military duty, or at any time during his terminal leave. Thereafter, he may be so reinstated, at any time after such ninety-day period and within one year after the termination of his military duty, in the discretion of the appointing officer or body.

(b) A public employee who resigned from his position during his military duty, or within six months prior to the commencement of such military duty, may, in the discretion of the appointing officer or body, be reinstated to his position within one year after the date of his resignation, excluding from said period the time he was on military duty. Every public employee reinstated under the provisions of this subdivision or pursuant to subdivision one-a of rule sixteen of the rules for the classified civil service for the state or pursuant to any comparable rule of a municipal civil service commission, shall be deemed to have been on a leave of absence for the duration of his military duty.

3. Substitutes. A position held by a public employee who is absent on military duty shall, so far as practicable, be continued in existence but shall be deemed temporarily vacant and shall be filled only when the public interest so requires. Any appointment to fill such vacancy shall be designated as a substitute appointment and the request for certification, the certification and the indicia of appointment shall show that the person is being appointed as a substitute. Any public employee, who accepts appointment as a substitute shall be granted a leave of absence from his former position until the termination of such appointment and the temporary vacancy resulting from such leave of absence shall be filled in like manner only when the public interest so requires and any appointment to such position shall also be designated as a substitute appointment and the request for certification, the certification and the indicia of appointment shall show that the person is being appointed to such position as a substitute. Every such substitute appointment shall be for a period not exceeding the leave of absence of the former incumbent and shall be made in accordance with the provisions of law applicable to such position, provided, however, that such substitute appointment may be continued for a period in excess of one year, notwithstanding the provisions of section fifteen of the civil service law. Such substitute employee shall acquire no right to permanent appointment or tenure by virtue of his service as a substitute and such service may be terminated at any time in the discretion of the appointing officer or body. His rights, if any, with respect to appointment or tenure, shall not, however, be impaired in any way by his acceptance of an appointment as a substitute and his name shall remain on any eligible or other list and he shall be certified as eligible for any other appointment authorized by law during the existence of such list.

The appointment of a substitute shall terminate (a) upon the return of the former incumbent to his position or (b) upon the death or permanent total disability of the former incumbent or (c) upon failure of the former incumbent to return to said position within ninety days after the termination of his military duty or (d) upon the appointment

or promotion of the former incumbent to another position as authorized by subdivision six of this section, and, upon the happening of any of such events, said position may then be filled in the manner provided by law.

9. Probationary service. If a public employee or other person enters military duty before the expiration of the probationary period in any position to which he may have theretofore been appointed, or to which he may thereafter be appointed or promoted pursuant to subdivision six of this section, the time he is absent on military duty shall be credited as satisfactory service during such probationary period.

10-b. If a public employer consolidates, abolishes, displaces, or demotes a position, in accordance with section eighty, eighty-a or eighty-five of the civil service law, which is occupied by a public employee currently on active duty with the armed forces of the United States, as pursuant to title ten, fourteen or thirty-two of the United States code, such employer shall comply with subdivisions eleven and twelve of this section and, upon the termination of the public employee's active duty, as defined in title ten, fourteen or thirty-two of the United States code, such public employer shall provide full re-employment rights warranted to such employee under the Federal Uniformed Services Employment and Re-employment Rights Act of 1994, provided, however, the right of re-employment under this subdivision does not entitle such employee to displacement rights over any person with greater seniority. Such public employer shall not abolish any position or positions solely based upon the fact that the position or positions are currently filled by an individual or individuals engaged in military duty.

11. Preferred lists. If the position occupied by a public employee is abolished prior to the termination of his military duty his name shall be placed forthwith upon a preferred list, as herein provided. Public employees in the competitive class of the civil service shall have their names placed upon a preferred eligible list, pursuant to the provisions of section thirty-one of the civil service law and public employees subject to section twenty-five hundred thirty-five of the education law shall have their names placed upon a preferred list as provided in such section.

12. Military re-employment lists. If the position occupied by a public employee, who is not included in the provisions of subdivision eleven of this section, has been abolished or is no longer in existence upon the termination of his military duty such employee, upon filing a written request within ninety days after the termination of his military duty, shall have his name placed forthwith, upon a military re-employment list, as herein provided, for the position last held by him or any similar position. The military re-employment list for public employees in the classified civil service, other than in the competitive class, shall be established by the civil service commission having jurisdiction of such position and such list for public employees who are not in the classified civil service shall be established by the officer who makes payment of the wages or salary for such position. Separate lists shall be established for positions in the non-competitive and the labor class of the classified civil service. After the establishment of a military re-employment list, it shall be made available to appointing officers and bodies and no position shall be filled until the appointing officer or body certifies to the civil service commission or to the disbursing officer, as the case may be, that no person on such military re-employment list, who formerly held the same or a similar position, is qualified to fill and willing to accept appointment to such vacancy.

The civil service commission or the disbursing officer, as the case may be, shall refuse to approve the payroll for such position until such certificate is filed. Appointments from a military re-employment list may be made without regard to the order of standing on said list. Eligibility for appointment from such military re-employment list shall not continue for a period longer than four years from the date of termination of military duty. Refusal to accept an offer of appointment to a position similar to the last held by such public employee shall cause the removal of his name from such list. Upon a failure or refusal to comply with the provisions of subdivisions eleven and twelve of this section, the supreme court is empowered, upon the filing of a petition or other appropriate pleading, by the public employee entitled to the benefits of such provisions, to specifically require compliance therewith, and may, as an incident thereto, compensate such employee for any loss of wages suffered by reason of such unlawful action. The court shall order a speedy hearing in any such case and shall advance it on the calendar. Nothing in this subdivision shall be construed to apply to positions in the exempt class of the classified civil service.

13. Temporary positions. The provisions of subdivisions three and five of this section shall not be applicable to a public employee holding a temporary position, but such employee shall, nevertheless, be placed upon a military re-employment list, as provided in subdivision twelve of this section and, so far as practicable, shall be restored to a position similar to that held at the time such employee entered military duty.

14. Public employees appointed for a definite term. A public employee appointed for a definite term shall be deemed to have a leave of absence until the end of his term of office and until his successor has been appointed, but not thereafter, for the purpose of determining his rights under this section.

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6.1.5. Special Transfer Lists.

Whenever it is determined to the satisfaction of the commissioner of citywide administrative services that the abolition of a permanent position in the competitive class is imminent:

- (a) the head of the agency in which such position exists shall furnish forthwith to commissioner of citywide administrative services the name, title, date of original appointment and the salary of the employee expected to be suspended; and
- (b) the commissioner of citywide administrative services shall thereupon establish a special transfer list for such title and shall place the name of such employee thereon in the order of original appointment as though suspended in accordance with section eighty of the civil service law; and
- (c) for a period not exceeding six months prior to the prospective abolition of such position, an employee whose name appears on such special transfer list shall be eligible for the filling of vacancies in the same or similar position before certification is made from any open competitive or promotion list; and
- (d) the name of any employee appearing on such special transfer list who is not so transferred prior to the abolition of such employee's position shall be placed on an appropriate preferred list pursuant to section eighty-one of the civil service law.

6.1.6. Eligibility of Probationers for Transfer.

An employee on probation shall be eligible for transfer; provided however, that:

- (a) if such transfer is voluntary such employee shall serve the entire period of probation on the job in a pay status in the new position in the same manner and subject to the same conditions as required upon such employee's employment in the position from which transfer is made, and in accordance with the provisions of paragraph 5.2.1;

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(b) if such employee is involuntarily transferred from one agency to another due to a transfer of personnel upon a transfer of function, or if such employee transfers voluntarily to avoid layoff resulting from a reduction in force, then, in either of such events, such employee shall receive credit for the period of time already served on probation.

PERSONNEL RULES AND REGULATIONS OF THE CITY OF NEW YORK

SECTION V--ABOLITION OF POSITION, SUSPENSION, DEMOTION, PREFERRED LISTS

6.5.1. Suspension or Demotion.

The suspension or demotion of competitive class employees upon the abolition or reduction of positions shall be governed by the provisions of section eighty of the civil service law.

6.5.2. Units for Suspension or Demotion.

(a) The commissioner of citywide administrative services may, by rule, designate as separate units for suspension or demotion under this section, any institution or any division of any agency.

(b) There are hereby designated within the department of health the following separate units for suspension or demotion:

- (1) urine testing laboratory of the methadone maintenance treatment program;
- (2) Williamsburg methadone maintenance clinic of the methadone maintenance treatment program;
- (3) evaluation and control unit of the methadone maintenance treatment program.

(c) There are hereby designated within the department of mental health, mental retardation and alcoholism services the following separate units for suspension and demotion:

- (1) criminal and supreme court mental health program;
- (2) family court mental health program.

(d) There are hereby designated within the department of citywide administrative services the following separate units for suspension or demotion:

- (1) executive offices, which shall include the commissioner's office, office of the general counsel, office of technology and information services, office of fleet administration and transportation and office of external affairs and communications;
- (2) offices of the chief financial officer and the chief administrative officer;
- (3) office of administrative trials and hearings;
- (4) division of facilities management and construction services;
- (5) division of municipal supply services;
- (6) division of real estate services;
- (7) division of citywide personnel services.

(e) There are hereby designated within the department of housing preservation and development the following units for suspension or demotion:

- (1) office of property management;
- (2) office of development;
- (3) office of rent and housing maintenance;
- (4) office of central administration.

(f) There are hereby designated within the Department of Finance the following units for suspension or demotion:

PERSONNEL RULES AND REGULATIONS OF THE CITY OF NEW YORK

- (1) Department of Finance;
- (2) Tax Appeals Tribunal.

6.5.3. Preferred Lists; Certification and Reinstatement.

In the event of suspension or demotion, preferred lists and certification and reinstatement therefrom shall be governed by the provisions of section eighty-one of the civil service law.

6.5.4. Effect of Failure or Refusal to Accept Reinstatement.

(a) The failure or refusal of a person on a preferred list to accept reinstatement to the person's former position, or any comparable position in a comparable salary or salary range for which such list is certified, shall be deemed to be relinquishment of eligibility for reinstatement, and such person's name shall thereupon be stricken from such preferredlist.

(b) The name of such person may be restored to such preferred list, and certified to fill such appropriate vacancies as may thereafter occur, only upon the written request of such person containing a submission of reasons satisfactory to the commissioner of citywide administrative services for the previous failure or refusal to accept reinstatement.

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5.3.12. Eligibility to Compete in a Promotion Examination: Preferred List or Leave of Absence Status. An employee who has been suspended from a position through no fault of the employee and whose name is on a preferred list, and any employee on leave of absence from a position shall be allowed to compete in a promotion examination for which such employee would otherwise be eligible on the basis of actual service before suspension or leave of absence.

5.3.15. Eligible List Status of Employees Involuntarily Transferred, Reinstated From a Preferred List or Transferred to Avoid Layoff.

Whenever a permanent employee is involuntarily transferred from one agency to another due to a transfer of personnel upon a transfer of functions or whenever such employee is reinstated from a preferred list to an agency other than the one from which the employee was separated:

(a) If both the examination for the agency to which the employee is being transferred and the examination for the agency from which the employee was transferred were not given simultaneously nor are they identical, the employee shall be entitled, upon written application, to have his or her name transferred from such agency promotion list upon which it may appear in the first agency and entered upon a corresponding special promotion list for the agency to which such employee was reinstated from the preferred list or was involuntarily transferred. However, such corresponding special promotion list shall not be certified for promotion to such agency until any existing corresponding agency and unit promotion list or lists shall have been exhausted or terminated;

(b) If both the examination for the agency to which the employee is being transferred and the examination for the agency from which the employee was transferred were given simultaneously and are identical, the said employee shall be entitled upon written application to have his or her name transferred from such agency promotion list upon which it may appear and entered upon the appropriate eligible list in the agency to which such employee was reinstated from the preferred list or was involuntarily transferred based upon the final adjusted mark of such employee;

(c) If both the examination for the agency to which the employee is being

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transferred and the examination for the agency from which the employee was transferred were given simultaneously and although not identical the commissioner of citywide administrative services has determined that said examinations are comparable, the said employee shall be entitled upon written application to have his or her name transferred from such agency promotion list upon which it may appear and to have his or her name entered upon the appropriate eligible list in the agency to which such employee was reinstated from the preferred list or was involuntarily transferred based upon the final adjusted mark of such employee.

(d) The provisions of this section shall apply to a permanent employee who is transferred either voluntarily or involuntarily to avoid imminent suspension or demotion of employees within an agency due to an abolition or reduction of positions. The determination that suspensions or demotions are imminent shall be made by the commissioner of citywide administrative services.

(e) Where employees in the second agency, in the same title as the transferred employees provided for in this section, would have been eligible to participate in a promotion examination given at the same time as the one given to such transferred employees, but no such promotion examination was given, the provisions of this section shall not apply to such transferred employees.

ARTICLE V - TIME AND LEAVE

Section 1.

- a. All provisions of the Resolution approved by the Board of Estimate on June 5, 1956 on "Leave Regulations for Employees Who Are Under the Career and Salary Plan" (hereinafter "Leave Regulations") and amendments, and official interpretations relating thereto, in effect on the effective date of this Agreement and amendments which may be required to reflect the provisions of this Agreement shall apply to all employees covered by the Agreement.

Interpretations shall be defined as those rulings issued by the Commissioner of Citywide Administrative Services pursuant to Section 6.6 of the Leave Regulations and which are printed in the official Leave Regulations.

This Section shall not circumscribe the authority of the Commissioner of Citywide Administrative Services to issue new interpretations subsequent to the effective date of this Agreement. Such new interpretations shall be subject to the grievance and arbitration provisions of this Agreement.

- b. The annual leave allowance for Employees in a title or an agency covered by the Leave Regulations shall accrue as follows: *

<u>Work Week</u>	<u>Years of Service</u>	<u>Monthly Accrual</u>	<u>Allowance</u>
60	Beginning of 15th year	27:00 hours	324:00 hours
	Beginning with 8 year	25:00 hours	300:00 hours
	Beginning with 5 year	20:00 hours	240:00 hours
	First Year	15:00 hours	180:00 hours
40	Beginning of 15th year	18:00 hours	216:00 hours
	Beginning with 8 year	16:40 hours	200:00 hours
	Beginning with 5 year	13:20 hours	160:00 hours
	First Year	10:00 hours	120:00 hours
37½	Beginning of 15th year	16:53 hours	202:30 hours
	Beginning with 8 year	15:38 hours	187:30 hours
	Beginning with 5 year	12:30 hours	150:00 hours
	First Year	9:23 hours	112:30 hours
35	Beginning of 15th year	15:45 hours	189:00 hours
	Beginning with 8 year	14:35 hours	175:00 hours
	Beginning with 5 year	11:40 hours	140:00 hours
	First Year	8:45 hours	105:00 hours

* Refer to prior Citywide Agreement for accrual rate in effect prior to July 1, 1991.

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Section 2.

- a. Employee requests for annual leave made pursuant to agency policy or collective bargaining agreement, shall be in writing on a form supplied by the agency. Approval or disapproval of the request shall be made on the same form by a supervisor authorized to do so by the agency.

Decisions on requests for annual leave or for leave with pay shall be made within seven (7) working days of submission except for requests which cannot be approved at the local level or requests for leave during the summer peak vacation period or other such periods for which the Employer has established and promulgated a schedule for submission and decision of leave requests. Once a leave request has been approved, the approval may not be rescinded except in writing by the agency head, Executive Director of a Hospital or Chief of Personnel in the Police Department.

If any agency head, Executive Director of a Hospital, or Chief of Personnel in the Police Department calls upon an employee to forego the employee's requested annual leave or any part thereof in any year, it must be in writing and that portion shall be carried over until such time as it can be liquidated.

- b. In order to allow employees to make advanced plans, decisions on requests for annual leave in amounts of at least 5 consecutive work days or tours falling during an agency's designated summer peak vacation period shall be made not less than thirty (30) days prior to the scheduled commencement of said peak vacation period. Such requests must be made no later than forty-five (45) days or tours prior to the commencement of the summer peak vacation period or by the designated submission date for such requests, whichever is earlier. The summer peak vacation period shall be the period designated by an Agency as such, provided such period does not commence prior to Memorial Day Weekend or extend past September 30th. Nothing contained herein shall preclude employees from making annual leave requests in accordance with the other provisions of this Agreement.
- c. Where an employee has an entitlement to accrued annual leave and/or compensatory time, and the City's fiscal condition requires employees who are terminated, laid off or who choose to retire in lieu of layoff, be removed from the payroll on or before a specific date because of budgetary considerations, the Employer shall provide the monetary value of accumulated and unused annual leave and/or compensatory time allowances standing to the employee's credit in a lump sum. Such payments shall be in accordance with the provisions of Executive Order 30, dated June 24, 1975, and the FLSA.

Sections 3-16: NOT APPLICABLE FOR LAYOFF PROCEDURES

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Section 17.

- a. Effective January 1, 1975, the terminal leave provision for all employees except as provided in subsections b. and c., below shall be as follows:

Terminal leave with pay shall be granted prior to final separation to employees who have completed at least ten (10) years of service on the basis of one (1) day of terminal leave for each two (2) days of accumulated sick leave up to a maximum of one hundred-twenty (120) days of terminal leave. Such leave shall be computed on the basis of work days rather than calendar days.

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**THE CITY OF NEW YORK
OFFICE OF LABOR RELATIONS**
40 Rector Street, New York, N.Y. 10006
WWW.CI.NYC.NY.US/HTML/OLR

JAMES F. HANLEY
Commissioner
CAROLINE I. SULLIVAN
First Deputy Commissioner

Dennis Sullivan
Director of Research & Negotiations
DC 37, AFSCME, AFL-CIO
125 Barclay Street
New York, N.Y. 10007

Re: 1995 – 2001 Citywide Agreement

Dear Mr. Sullivan:

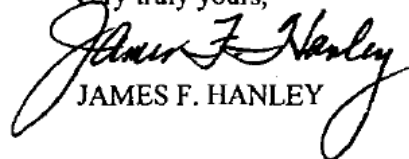
This is to confirm our mutual understanding and agreement that employees who are affected by the personnel actions set forth below shall not lose or gain seniority for the purposes of implementing the accrual rates set forth in Article V, Sections 1 and 19(b), and Article VI, Section 6 of the 1995-2001 Citywide Agreement.

1. An employee who returns to active service from an approved leave of absence.
2. An employee who is in pay status (whether full-time or part-time) and is permanently appointed in the same title or a new title.
3. Employees who were laid off or terminated for economic reasons who are appointed from a preferred/recall list or referred by the PRC.
4. A provisional employee who was terminated because of the existence of a civil service list and appointed from a civil service list within one year of such termination.
5. A permanent employee who resigns and is reinstated or who is appointed from a civil service list within one year of such resignation.
6. An employee who resigns and returns within 31 days.
7. A provisional employee who resigns and returns as a provisional within 31 days.
8. A provisional employee who is appointed directly from one provisional appointment to another.
9. For employees whose circumstances were not anticipated by the parties, the First Deputy Commissioner of Labor Relations shall hereby be empowered to issue case-by-case interpretations.


The provisions of this letter shall be deemed part of the 1995-2001 Citywide Agreement as if fully set forth therein. Except as is otherwise provided herein, the contents of this letter shall be effective the date of execution of the 1995-2001 Citywide Agreement and shall be coterminous therewith.

If you concur with the contents set forth herein, please execute the signature line provided below.

Very truly yours,


JAMES F. HANLEY

AGREED ON BEHALF OF DC 37, AFSCME, AFL-CIO

BY: 
DENNIS SULLIVAN

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APPENDIX B

ARTICLE XVII - JOB SECURITY

Section 1. General Layoff Provisions

Where layoffs are scheduled affecting full-time employees in competitive class, non-competitive class, and labor classes the following procedures shall be used:

- a. Notice shall be provided by the Office of Labor Relations to the appropriate union(s) not less than thirty (30) days before the effective dates of projected layoffs. Such notification(s) shall apply to all proposed layoffs and shall include a summary by layoff unit of the number of affected positions by title (including title code number and civil service status) and shall also include in addition to the above information the name, social security number, city start date, and title start date of each affected employee.

It is understood by the parties that such notice is considered to be preliminary and is subject to change during the 30 days notice period. However, if new title(s) which were not part of the original notice are added to the proposed layoff notice or the number of employees in title(s) contained in the original notice is increased beyond the number in the original notice, an additional 30 days notice will be given to the affected union(s) covering solely such additional title(s) or numbers, except, such additional 30 days notice shall not apply to employees displaced by the "bumping" provisions mandated by the Civil Service Law or by appointments from special transfer, preferred, or other civil service lists. The parties may waive such additional notice by mutual consent.

- b. Within such 30-day period designated representatives of the Employer will meet and confer with the designated representatives of the appropriate union with the objective of considering feasible alternatives to all or part of such scheduled layoffs, including but not limited to:
 - i. the transfer of employees to other agencies with retraining, if necessary, consistent with Civil Service law but without regard to the Civil Service title,
 - ii. the use of Federal and State funds whenever possible to retain or re-employ employees scheduled for layoff,
 - iii. the elimination or reduction of the amount of work contracted out to independent contractors, and
 - iv. encouragement of early retirement and the expediting of the processing of retirement applications.
- c. After meeting and conferring with the designated representatives of the appropriate union, the Employer shall have the right, when necessary, to transfer any employee, in lieu of layoff, from one agency to another provided such transfer is within title (and the employee meets all the legal requirements of the new position) and is being made without loss in pay, benefits, or seniority to the affected employee. The following procedure shall govern:
 - i. Volunteers in order of title seniority.
 - ii. Non-volunteers in order of title seniority among those who would otherwise have to be laid off in the agency from which the transfer is being made.

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Section 2. Competitive Class Preferred Lists

- a. When a layoff occurs, the Employer shall provide to the appropriate bargaining representative a list of permanent competitive class employees who are on a preferred list with the original date of appointment utilized for the purpose of such layoff.
- b. A laid off employee who is returned to service in the employee's former title or in a comparable title from a competitive class preferred list, shall receive the basic salary rate that would have been received by the employee had the employee never been laid off, up to a maximum of two (2) years of general salary increases.

Section 3. Non-Competitive Class and Labor Class Layoff Procedures

- a. If budgetary restrictions, consolidations or abolition of functions or other curtailment of activities result in the abolition of non-competitive class or labor class positions, the suspension among the incumbents in the same class of positions shall be made in inverse order of their original appointment to the agency in the subject class of positions.
- b. The date of original appointment shall be the first date of appointment followed by continuous service up to the time of the abolition or reduction of positions.
- c. An employee who had been terminated from the subject class of positions and who was reappointed in the affected class of positions within one year thereafter shall for the purposes of this Section be deemed to have continuous service.
- d. A period of an authorized leave of absence without pay or any period during which an employee is suspended from the employee's position pursuant to this Section shall not constitute an interruption of continuous service for the purposes of this Section.
- e. In the case of non-competitive or labor class employees, the Employer may determine the layoff unit (agency, unit of appropriation, department, bureau, division, or other clearly identifiable subdivision). In such case, layoff shall be made from among incumbents in the same class of positions in each such layoff unit.
- f. If the Employer designates a subdivision smaller than a unit of appropriation, department, bureau, or division as a non-competitive layoff unit or smaller than a unit of appropriation as a labor class layoff unit, the affected union may appeal such designation within 3 days of the receipt of the layoff notice to Commissioner of Citywide Administrative Services who will issue a final and binding determination within 3 days of the receipt of such appeal.
- g. Employees in affected titles in the layoff unit shall be laid off in the following order:
 - i. All employees in probationary status in the same title. Among them, layoff shall be in inverse order to date of original appointment.
 - ii. All employees who have satisfactorily completed their probationary periods in the same title. Among them, layoff shall be in inverse order to date of original appointment.

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Section 4. Non-Competitive Class and Labor Class Recall Procedures

- a. In the event of layoff the Employer shall place the names of affected non-competitive or labor class employees on a recall list.
- b.
 - i. The Employer shall certify such recall list for filling non-competitive vacancies in the same class of positions in the unit of appropriation from which the suspensions were made, and for labor class vacancies in the same class of positions in the agency from which the suspensions were made, and for which the Commissioner of Citywide Administrative Services determines they qualify. The parties may waive the terms contained in this paragraph by mutual consent.
 - ii. Effective November 26, 1999, the following subsection shall supercede subsection 4(b)(i):

For filling non-competitive vacancies in the same class of positions from which the layoffs were made and for which the Commissioner of Citywide Administrative Services determines such laid off employees are qualified, the Employer shall certify such recall list to the agency from which the layoffs were made. For filling labor class vacancies in the same class of positions from which the layoffs were made, the Employer shall certify such recall list on a citywide basis. The parties may waive the terms contained in this paragraph by mutual consent.
- c. Persons on the recall list shall be called for reinstatement in the order of their original date of appointment and upon the occurrence of a vacancy in an appropriate position in the recall unit shall be certified in seniority order. The eligibility for reinstatement of a person on such a recall list shall not continue for a period longer than four years from the date of separation.
- d. No person suspended or demoted prior to completing his/her probationary term shall be certified for reinstatement until the exhaustion of all other eligibles on the recall list and shall be required to complete his/her probationary term upon reinstatement.
- e. Failure or refusal to accept reinstatement from recall lists to vacancies in the same class of positions shall be deemed relinquishment of eligibility and the employee's name shall be removed from the list.
- f. A person reinstated from a recall list to his/her former class of positions shall receive at least the same salary he/she was receiving at the time of suspension.
- g. Notwithstanding any other provisions of this Section, the Employer may, to the extent permissible by law, disqualify for reinstatement and remove from a recall list the name of any eligible who is physically or mentally disabled for the performance of the duties of the position for which such list is established, or who has been guilty of such misconduct as would result in dismissal.

Section 4. Applicability

These procedures shall not apply in those agencies where layoff procedures already exist unless specifically agreed to by the Union and affected agencies.

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PERSONNEL RULES AND REGULATIONS OF THE CITY OF NEW YORK

6.5.5. Labor Class.

Whenever in any agency a position in the labor class is abolished or made unnecessary in any manner, or whenever the number of such positions is reduced, the permanent employee in such position shall be deemed suspended without pay and such employee's name shall be placed upon a preferred list for certification to appropriate vacancies for a period of one year from the date of suspension in the same manner as provided by sections eighty and eighty-one of the civil service law for the competitive class.

NEW YORK CIVIL SERVICE LAW

§ 86

Transfer of veterans or exempt volunteer firefighters upon abolition of positions.

If the position in the non-competitive or in the labor class held by any honorably discharged veteran of the armed forces of the United States who served therein in time of war as defined in section eighty-five of this chapter, or by an exempt volunteer firefighter as defined in the general municipal law, shall become unnecessary or be abolished for reasons of economy or otherwise, the honorably discharged veteran or exempt volunteer firefighter holding such position shall not be discharged from the public service but shall be transferred to a similar position wherein a vacancy exists, and shall receive the same compensation therein. It is hereby made the duty of all persons clothed with the power of appointment to make such transfer effective. The right to transfer herein conferred shall continue for a period of one year following the date of abolition of the position, and may be exercised only where a vacancy exists in an appropriate position to which transfer may be made at the time of demand for transfer. Where the positions of more than one such veteran or exempt volunteer firefighters are abolished and a lesser number of vacancies in similar positions exist to which transfer may be made, the veterans or exempt volunteer firemen whose positions are abolished shall be entitled to transfer to such vacancies in the order of their original appointment in the service. Nothing in this section shall be construed to apply to the position of private secretary, cashier or deputy of any official or department. This section shall have no application to persons encompassed by section eighty-a of this chapter.

APPENDIX C

{AGENCY LETTERHEAD}

("At Risk": Probationary Competitive,
Permanent Competitive)
Revised

07/2020

(DATE)

Dear Employee:

As a result of the growing severity of the City's financial situation, and despite every effort that has been made to achieve savings through attrition and other means, it is necessary to lay off employees. Unfortunately, positions in your title have been targeted for layoff. Your contractual, statutory, and civil service rights with regard to layoffs will be honored throughout this process.

This is not a layoff notice! Not everyone in your title will necessarily be laid off. According to Civil Service Law, layoffs/terminations of competitive class employees in the same title must take place in the following order: provisionals, probationers, permanents.

Civil service seniority is the governing factor in the layoff of permanent and probationary competitive class employees. Layoffs occur within the agency in inverse order of Civil Service seniority. Seniority is based upon the first date of permanent service in the classified service followed by continuous service. Permanent service includes any appointment to the classified service in which probation has been completed. New York Civil Service Law allows for additional seniority (preference) for eligible veterans, disabled veterans and spouses of disabled veterans. Persons who are blind receive absolute preference in retention. If you wish to claim preference you should complete Form DP-323 (Claim for Preference) and return it immediately to our agency Personnel Office. In addition, based on your seniority, if you are identified for layoff you may have the right to "bump" to a previously held permanent title, if any. If you wish to claim bumping rights, please make a written request to our Personnel Office immediately.

("At Risk": Probationary Competitive, Permanent
Competitive)

In lieu of layoff, permanent/probationary competitive employees will be placed on a Special Transfer List whenever provisional employees are serving elsewhere in the City in the same or similar title or where vacancies exist in such titles. Employees whose names are certified from Special Transfer Lists and who decline a job offer will then be bumped down or laid off and placed on Agency and Citywide Preferred Lists. If the employee again declines a job offer from a preferred list, the employee's name will be removed from applicable lists.

We urge you to contact your retirement system regarding your rights with respect to retirement and vesting, and other pension questions.

For additional information, you should contact our agency Personnel Office.

Very truly yours,

{Agency Head}

attachment

{AGENCY LETTERHEAD}

("At Risk": Non-Competitive, Labor Class)
Revised

07/2020

(DATE)

Dear Employee:

As a result of the growing severity of the City's financial situation, and despite every effort that has been made to achieve savings through attrition and other means, it is necessary to lay off employees. Unfortunately, positions in your title have been targeted for layoff. Your contractual rights with regard to layoffs will be honored throughout this process.

This is not a layoff notice! Not everyone in your title will necessarily be laid off. If your non-competitive/labor class title is covered by the Citywide Agreement (or other agreement with similar layoff provisions), employees in your title will be laid off in inverse seniority order of the date of their original appointment to the agency in the layoff title followed by continuous service up to the date of layoff.

If your non-competitive title is not covered by the Citywide Agreement (or other agreement with similar layoff provisions), employees in your title may be laid off in any order. If your labor class title is not covered by the Citywide Agreement (or other agreement with similar layoff provisions), employees in your title will be laid off in inverse order of seniority determined by the date of their first permanent appointment followed by continuous service. Permanent appointment includes appointments from a civil service list, as well as appointments to labor class, some exempt titles, and some non-competitive titles.

If you are on an authorized leave of absence from a permanent competitive title, you should contact our agency Personnel Officer.

("At Risk": Non-Competitive, Labor Class)

An attempt will be made to secure a similar vacant position prior to layoff for those non-competitive and labor class employees who qualify as veterans or exempt volunteer firefighters. If you wish to claim veteran or exempt volunteer firefighter status, you should complete Form DP- 323 (Claim for Preference) and return it immediately to our Personnel Office along with a copy of your DD-214, evidence of your current address and your marriage certificate and disability certificate as applicable.

We urge you to contact your retirement system regarding your rights with respect to retirement and vesting, and other pension questions.

For additional information, you should contact our Personnel Office.

Very truly yours,

(Agency Head)

attachment

{AGENCY LETTERHEAD}

(Layoff/Termination Letter: Provisional, Non-competitive, Labor Class, Exempt,
Unclassified) Revised

07/2020 (DATE)

Dear Employee:

As a result of the growing severity of the City's financial situation, and despite every effort that has been made to achieve savings through attrition and other means, it is necessary to layoff or terminate employees due to budgetary cutbacks.

After a careful analysis of our existing workforce in relation to agency needs and priorities, and based upon the applicable laws, rules and contracts, a number of employees in this agency have been scheduled for termination or layoff. Regretfully, I must inform you that your services cannot be retained after close of business [DATE].

Provisional and exempt class employees are not protected under either Civil Service Law or the Citywide Agreement (or other agreement with similar layoff provisions) in the event of a layoff. Civil Service Law provides that provisional employees in a title may not retain their positions while permanent/probationary competitive class employees in that title are laid off. For the purpose of layoffs for budgetary reasons, provisional employees who have two or more years of service do not have greater rights than those who have fewer than two years of service.

Non-competitive employees and labor class employees covered by the Citywide Agreement (or other agreement with similar layoff provisions) are laid off in inverse seniority order of the date of their original appointment to the agency in the layoff title followed by continuous service up to the date of layoff. Non-competitive employees not covered by the Citywide Agreement (or other agreement with similar layoff provisions) may be laid off in any order. Labor class employees not covered by the Citywide Agreement (or other agreement with similar layoff provisions) are laid off in inverse order of seniority determined by the date of their first permanent appointment followed by continuous service. Permanent appointment includes appointments from a civil service list, as well as appointments to labor class titles, some exempt titles, and some non-competitive titles.

C-3(a)

("Layoff/Termination Letter: Provisional, Non-competitive, Labor Class, Exempt,
Unclassified") 07/2020

If you are a non-competitive, labor class or unclassified employee whose position has been eliminated while you are on military duty, you should, upon termination of your military duty, report directly to this agency to determine if your position has been restored. If your position has not been restored, complete Form DP-323 (include a copy of your DD-214, evidence of your current address, and your disability certificate and marriage certificate as applicable) and return it to DCAS' Bureau of Civil Service Administration within 90 days of the date of termination of your military duty. Provisional and exempt class employees should not complete Form DP-323.

In addition to your active title, if you are on an authorized leave of absence from a permanent competitive title, you may have rights to return to your permanent competitive title. You should immediately contact our agency Personnel Officer. Our agency Personnel Officer is also available to answer any other questions which may arise regarding your termination/layoff.

After the layoff/termination date, non-competitive employees and labor class employees who are covered by the Citywide Agreement (or other agreement with similar layoff provisions) will be placed on the appropriate recall list. Labor class employees who are not covered by the Citywide Agreement will be placed on a preferred list.

We urge you to contact your retirement system regarding your rights with respect to retirement and vesting, and other pension questions.

You are responsible for notifying this agency and DCAS of any change of name and/or address. Failure to do so may result in your missing an opportunity for return to City service.

It is unfortunate that the City's financial condition requires this agency to take such action. Thank you for your contribution and service to the City of New York.

Very truly yours,

{Agency Head}

attachment

C-3(b)

{AGENCY LETTERHEAD}

(Layoff/Termination Letter: Probationary Competitive, Permanent Competitive)
Revised 07/2020

(DATE)

Dear Employee:

As a result of the growing severity of the City's financial situation, and despite every effort that has been made to achieve savings through attrition and other means, it is necessary to layoff or terminate employees due to budgetary cutbacks.

After a careful analysis of our existing workforce in relation to agency needs and priorities, and based upon the applicable laws, rules and contracts, a number of employees in this agency have been scheduled for layoff, termination, and bumping. Regretfully, I must inform you that your services cannot be retained in the above-mentioned title after close of business [DATE].

For permanent/probationary competitive class employees who have been laid off, or bumped down, DCAS shall establish, maintain, and certify, when appropriate, competitive class Preferred Lists in accordance with the New York Civil Service Law. Such employees will be placed on Agency and Citywide Preferred Lists. Declination of a job offer resulting from a certification from the Citywide Preferred List will result in removal from that list altogether and such employees will remain only on their Agency Preferred List.

If your position has been eliminated while you are on military duty, you should, upon termination of your military duty, report directly to this agency to determine if your position has been restored. If your position has not been restored, complete Form DP-323 (include a copy of your DD-214, evidence of your current address, and your disability certificate and marriage certificate as applicable) and return it to DCAS' Bureau of Civil Service Administration within 90 days of the date of termination of your military duty.

We urge you to contact your retirement system regarding your rights with respect to retirement and vesting, and other pension questions.

You are responsible for notifying this agency and DCAS of any change of name and/or address. Failure to do so may result in your missing an opportunity for return to City service.

It is unfortunate that the City's financial condition requires this agency to take such action. Thank you for your contribution and service to the City of New York.

Very truly yours,

{Agency Head}

attachment

[AGENCY LETTERHEAD]

[Sample Recall Letter]

[DATE]

[CANDIDATE NAME]
[ADDRESS]
[ADDRESS]

Re: Recall List for [TITLE]
Employee ID:

Dear _____ :

Your name has been provided to us by the Department of Citywide Administrative Services from the [TITLE] recall list.

This is an offer to be returned to your previous title. If you accept this offer, you will retain the seniority you held at the [LAYOFF AGENCY NAME]. Please report to [PERSONNEL OFFICER NAME, OFFICE, AND ADDRESS] for employment processing on [DATE and TIME]. You must confirm your attendance by calling [NAME] at [PHONE NUMBER]. In addition, you must bring this notice and photo identification with you on the date of your appointment.

If you decline this offer, please indicate the reason below and sign and return this letter **WITHIN FIVE (5) DAYS** from the date of this letter. Please note that a declination of appointment or failure to report for employment processing on the date and time stated above will result in the removal of your name from the list.

If your name is removed from the list you may request that your name be considered for restoration by submitting a request to askcst@dcas.nyc.gov, specifying the reason for declination or failure to report.

The Department of Citywide Administrative Services will review your request and advise you in writing of their restoration decision. Such decisions are discretionary.

Sincerely,
[NAME AND TITLE OF HR DIRECTOR]

DECLINATION OF APPOINTMENT

<p>I, _____, hereby decline appointment to the</p> <p style="text-align: center;">(Name)</p>	
<p>position of _____,</p> <p style="text-align: center;">(Title)</p>	<p>in _____</p> <p style="text-align: center;">(Hiring Agency)</p>
<p>Reason for declining appointment from Recall List:</p> <p>_____</p> <p>_____</p>	
<p>I understand that this declination is IRREVOCABLE, and that as a result of this declination, my name will be removed from the Recall List.</p>	
<p>_____</p> <p style="text-align: center;">(Signature)</p>	<p>_____</p> <p style="text-align: center;">(Date)</p>

EXAMPLES OF SENIORITY FOR PERMANENT COMPETITIVE CLASS LAYOFFS

For permanent competitive class layoffs, seniority is based on the date of first permanent appointment in the classified service followed by continuous service up to the layoff date.

- | | | | |
|----|---|---|---|
| 1. | July 2, 1995 to
June 29, 1996 | June 30, 1996 to
October 7, 1998 | October 8, 1998 to
Present |
| | Noncompetitive
appointment to
Community Assistant | Provisional
appointment to
Clerical Associate | List appointment to Clerical
Associate and satisfactorily
completed probation on
October 8, 1999 |

The seniority date for layoff would be July 2, 1995.

- The date of original permanent appointment in the classified service is July 2, 1995. (Classified service includes positions in the noncompetitive, competitive, labor and exempt class. Permanent service includes classified service where the probationary period has been completed.)
- The employee has continuous service from July 2, 1995 to the present.
- The continuous service includes employment in a provisional position preceded and followed by permanent service in the classified service.

- | | | | |
|----|---|---|--------------------------------------|
| 2. | July 2, 1995 to
June 29, 1996 | June 30, 1996 to
October 7, 1998 | October 8, 1998 to
Present |
| | Provisional
appointment to
Clerical Associate | Noncompetitive
appointment to
Community Assistant | List appointment to
Staff Analyst |

The seniority date for layoff would be June 30, 1996.

- The date of original permanent appointment in the classified service is June 30, 1996.
- The employee has continuous service in the classified service on a permanent basis from June 30, 1996 to the present.
- The period served provisionally (July 2, 1995 to June 30, 1996) does not count toward seniority because it only precedes the permanent service...in order to count, provisional service must be preceded and followed by permanent service in the classified service.

3.	July 2, 1995 to July 2, 1996	July 3, 1996 to October 7, 1998	October 8, 1998 to Present
	List appointment to Clerical Associate	Provisional appointment to Principal Administrative Associate	List appointment to Staff Analyst

The seniority date for layoff would be July 2, 1995.

- The date of original permanent appointment in the classified service is July 2, 1995.
- The employee has continuous service in the classified service on a permanent basis from July 2, 1995 to the present.
- The period served provisionally (July 3, 1996 to October 7, 1998) counts toward seniority because it is both preceded and followed by permanent service in the classified service.

FACTORS USED BY THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES IN ADJUSTING INDIVIDUAL SENIORITY DATES OF PERMANENT/ PROBATIONARY COMPETITIVE CLASS EMPLOYEES

1. Preferences

- a. Blind employees have absolute rights of retention over all other employees in their layoff title and layoff unit, regardless of probationary status and seniority dates, and therefore, are the last in their group to be laid off (Civil Service Law §85, subd. 7). Employees must, in addition to completing Form DP-323, present verification of blindness to DCAS in the form of a Certificate of Blindness issued by the State Commission for the Blind.
- b. Employees who are nondisabled veterans as defined in §85 (1)(a) of the Civil Service Law will be entitled to have their seniority dates set at 30 months earlier than their actual dates of appointment (Civil Service Law §85, subd. 7). To receive veteran's preference, an employee must satisfy all of the following criteria:
 - (i) On active duty in the U.S. Military (other than for training purposes) during one of the following periods:

December 7, 1941 - December 31, 1946 (World War II)
June 27, 1950 - January 31, 1955 (Korean Conflict)
February 28, 1961 - May 7, 1975 (Vietnam Conflict)
June 1, 1983 - December 1, 1987 (Lebanon)
October 23, 1983 - November 21, 1983 (Grenada)
December 20, 1989 - January 31, 1990 (Panama)
August 2, 1990 - to be determined
 - (ii) Veteran's preference for service in Lebanon, Grenada, and Panama will be limited to those who received the Armed Forces, Navy, or Marine Corps Expeditionary Medal;
 - (iii) Receipt of an honorable discharge or discharge under honorable conditions. Effective November 12, 2020, including:
 - Having a qualifying condition, defined by Executive Law Section 350(8) as a diagnosis of post-traumatic stress disorder or traumatic brain injury made by, or an experience of military sexual trauma, as described in 38 USC 1720D, as amended from time to time, disclosed to, an individual licensed to provide health care services at a United States Department of Veterans Affairs facility, and receiving a discharge other than bad conduct or dishonorable; or
 - Being a discharged LGBT veteran, as defined in section 350 of the Executive Law, and receiving a discharge other than bad conduct or dishonorable from such service,
 - (iv) Resident of the State of New York at the time of retention (i.e., layoff).

- c. Employees who are disabled veterans as defined in §85 (1)(b) of the Civil Service Law will be entitled to have their seniority dates set at 60 months earlier than their actual dates of appointment (Civil Service Law §85, subd. 7). To receive veteran's preference, an employee must satisfy all of the following criteria:
- (i) All of the above requirements for veteran's preference are met;
 - (ii) Disability was war-incurred during the full-time active duty other than active duty for training and is rated at 10% or more by the Veterans Administration; and
 - (iii) Employee is receiving or is entitled to receive payments from the Veterans Administration for such disability based on a medical examination held within one year of the date of layoff, or is receiving or is entitled to receive payments from the Veterans Administration for disability certified as permanently stabilized.

Note: Veteran's preference and disabled veteran's preference, for purposes of retention only, may be used by the employee more than once, even if the employee has previously used it for a competitive examination. Furthermore, using veteran's preference in retention does not prevent an employee from using veteran's preference on future competitive examinations (as long as such a credit has not already been used on a previous exam).

- d. The spouse of a veteran with 100% service connected disability, who is domiciled with the veteran-spouse and is head of household, is entitled to have his or her seniority date set at 60 months earlier than actual date of appointment (Civil Service Law §85, subd. 7). The employee will be required to supply to DCAS verification as head of household from the Internal Revenue Service. The disabled veteran whose spouse claims such preference must meet all the requirements for disabled veteran's preference.

2. Continuous Service

For purposes of calculation of civil service seniority for a permanent competitive class employee or a probationary competitive class employee, that employee must have had continuous service in any classified service position with the City from the seniority date up to the layoff date (Appendix C-4). Continuous service includes (Civil Service Law 80, subd. 2):

- a. For layoff purposes, a period of employment in a temporary, provisional or unclassified position immediately preceded by and followed by permanent service in the classified service. (Permanent classified service includes service in competitive, noncompetitive, labor and exempt class positions once any required probationary period has been satisfactorily completed.);
- b. Duly authorized leaves-of-absence without pay and leaves-of-absence to serve in other positions. Although, for purposes of calculating civil service seniority, a break in service is deemed to be one year or more, service is continuous if an employee is on leave from a permanent competitive position and stepped up to a provisional position or appointed to a noncompetitive, labor, exempt class or unclassified position;
- c. Resignation and subsequent reinstatement or reappointment within one year from/to permanent competitive, probationary competitive, provisional, noncompetitive, labor or exempt class;
- d. Termination because of disability resulting from an occupational injury or disease as defined in the Workers' Compensation Law, and subsequent reinstatement or reappointment pursuant to Civil Service Law §71;
- e. A period of layoff for economic reasons (time on a Preferred List and/or laid off). For determining seniority, this service is continuous for permanent/probationary competitive employees laid off after July 1, 1975 regardless of the length of the break (Civil Service Law §80.2 and §80.8). Service is continuous for any noncompetitive or labor class employee laid off pursuant to the Citywide Agreement and subsequently rehired to the same title from which the employee was laid off.

3. Other Factors

- a. In cases where New York City has taken over the functions of another jurisdiction (e.g., the State), the employees who were transferred with the function will have their seniority dates fixed at the date of appointment in the former jurisdiction (Civil Service Law §80, subd. 1).
- b. Employees who have been granted retroactive seniority as a result of military service, litigation or for some other reason, will have their seniority dates reflect this.
- c. Permanent competitive class employees who have received an injury in the line of duty which required immediate hospitalization as defined in §85, subd. 7 of the Civil Service Law, cannot be laid off or bumped within three months of their hospital confinement. This period may be extended for periods not exceeding one year for each extension, if medical authorities

appointed by DCAS certify that, as a result of the injury, the employee still cannot perform the duties of the job. This applies only to employees with injuries not compensable by Workers' Compensation (i.e., Police, Fire, and Sanitation uniformed services).

APPENDIX D

**THE CITY OF NEW YORK - DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES (DCAS)
1 CENTRE STREET, 21ST FLOOR, NEW YORK, N.Y. 10007
CLAIM FOR PREFERENCE**

- CLAIM FOR SENIORITY PREFERENCE FOR COMPETITIVE POSITION BASED ON VETERAN'S OR DISABLED VETERAN'S STATUS, BLINDNESS, OR AS SPOUSE OF A 100% SERVICE DISABLED VETERAN
- CLAIM FOR PLACEMENT ON MILITARY REEMPLOYMENT LIST BASED ON ABOLISHMENT OF NONCOMPETITIVE, LABOR CLASS, OR UNCLASSIFIED POSITION WHILE IN MILITARY SERVICE
- CLAIM FOR PLACEMENT ON CITYWIDE NONCOMPETITIVE OR LABOR CLASS TRANSFER LIST BASED UPON STATUS AS A VETERAN OR EXEMPT VOLUNTEER FIREFIGHTER

NOTE: FAILURE TO COMPLETE THIS FORM PRIOR TO LAYOFF WILL RESULT IN FORFEITURE OF RIGHTS

Do Not Write In This Section - For DCAS Use Only			DIVISION OF INVESTIGATION ACTION	
QUAL	NOT QUAL	PREFERENCE CATEGORY FOR POSITIONS IN THE COMPETITIVE CLASS	INVESTIGATOR: _____	DATE: _____
		VETERAN'S PREFERENCE		
		DISABLED VETERAN'S PREFERENCE		
		BLIND		
		SPOUSE OF 100% SERVICE-CONNECTED DISABLED VETERAN		
OTHER SPECIAL PREFERENCE CATEGORIES			SUPERVISOR: _____	DATE: _____
		CITYWIDE MILITARY REEMPLOYMENT LISTS		
		CITYWIDE PREFERRED LIST FOR NONCOMPETITIVE OR LABOR CLASS VETERANS AND EXEMPT VOLUNTEER FIREFIGHTERS		

SECTION A

TO BE COMPLETED BY EMPLOYEE

INSTRUCTIONS: Complete this form. Type or print in black ink. Return the original and one copy to the personnel officer of your agency unless otherwise instructed. Attach additional documentation to prove that you meet the requirements of your claim for preference including a copy of your DD-214, proof of current address, disability certificate and marriage certificate as applicable.

NAME (LAST, FIRST, MIDDLE INITIAL)		MAIDEN NAME OR OTHER NAME USED IN CITY SERVICE	EMPLOYEE ID NO.
HOME ADDRESS (NUMBER, STREET, BOROUGH OR TOWN, STATE, ZIP CODE)		DATE OF BIRTH (MM/DD/YY)	OFFICE PHONE NO.

NAME OF CURRENT AGENCY	CURRENT CIVIL SERVICE TITLE	TYPE OF APPOINTMENT (PLACE X IN APPROPRIATE BOX)						POSITION STATUS (X)		DATE APPT. TO TITLE (MM/DD/YY)
		PERM COMP (FROM LIST)	PROV COMP (NOT FROM LIST)	NON COMP	LABOR	EXEMPT	UNCLASS	FULL-TIME	TEMP	

PERMANENT OR PROBABLE PERMANENT COMPETITIVE CIVIL SERVICE TITLE (IF DIFFERENT FROM THE ABOVE)	DATE APPOINTED TO TITLE (MM/DD/YY)
--	---

YES (X)	NO (X)	ANSWER QUESTIONS 1 THROUGH 7 BY CHECKING "YES" OR "NO" TO EACH QUESTION.
		1. I AM A VETERAN AS DESCRIBED IN SECTION B. (IF YOUR ANSWER IS "YES," FILL OUT SECTION C.)
		2. I AM A DISABLED VETERAN AS DESCRIBED IN SECTION B. (IF YOUR ANSWER IS "YES," FILL OUT SECTION C.)
		3. I AM THE SPOUSE OF A VETERAN WITH 100% SERVICE-CONNECTED DISABILITY WITH WHOM I AM DOMICILED, AND I AM HEAD OF HOUSEHOLD. (IF YOUR ANSWER IS "YES," THEN SECTION C MUST BE FILLED OUT BASED ON DISABLED VETERAN'S MILITARY SERVICE.)
		4. I AM BLIND. (IF YOUR ANSWER IS "YES," YOU WILL BE REQUIRED TO SUBMIT A CERTIFICATE OF BLINDNESS FROM THE STATE COMMISSION FOR THE BLIND AND VISUALLY HANDICAPPED.)
		5. I AM AN EXEMPT VOLUNTEER FIREFIGHTER AS DEFINED IN GENERAL MUNICIPAL LAW SECTION 200.
		6. MY POSITION WITH THE CITY OF NEW YORK WAS ABOLISHED OR IS NO LONGER IN EXISTENCE UPON TERMINATION OF MY MILITARY DUTY.
		7. I AM A RESIDENT OF THE STATE OF NEW YORK AT THE TIME OF LAYOFF.

DP-323 (R. 07/2020)

SECTION B

- A person who meets the requirements for veteran's or disabled veteran's preference is entitled to make a claim for such preference in retention relative to a permanent or probable permanent position, regardless of a prior use for appointment promotion or layoff preference in the City or State civil service. Such a claim will not affect your right to make additional claims in the future.
- A person whose full-time or temporary noncompetitive, labor class or unclassified position with the City of New York was abolished or is no longer in existence upon termination of his/her military duty is entitled to make a claim for placement on a Military Reemployment List.
- A person who is in the noncompetitive or labor class and is an honorably discharged veteran (or discharged under honorable circumstances) or an exempt volunteer firefighter as defined in General Municipal Law Section 200 is entitled to make claim for placement on a Citywide Transfer List for Noncompetitive/Labor Class Veterans and Exempt Volunteer Firefighters.

REQUIREMENTS FOR VETERAN'S PREFERENCE:

- 1. Active service in the armed forces of the United States during any of the periods designated below. Active duty must have been full-time active duty other than active duty for training.

Dec. 7, 1941 - Dec. 31, 1946	June 1, 1983 - Dec. 1, 1987 (Lebanon)
June 27, 1950 - Jan. 31, 1955	Oct. 23, 1983 - Nov. 21, 1983 (Grenada)
Feb. 28, 1961 - May 7, 1975	Dec. 20, 1989 - Jan. 31, 1990 (Panama)
	Aug. 2, 1990 - to be determined
- 2. Honorably discharged or discharged under honorable circumstances. Effective November 12, 2020: or discharge other than bad conduct or dishonorable and
 - i. a "qualifying condition" (as defined in Executive Law Section 350[8]), relating to diagnosis of post traumatic stress disorder or traumatic brain injury or military sexual trauma; or
 - ii. a discharged LGBT veteran, as defined in Executive Law Section 350[9], relating to veterans who were discharged less than honorably due to their sexual orientation, or gender identity or expression or statements, consensual sexual conduct, or consensual acts relating to sexual orientation, gender identity or expression, or the disclosure of such statements, conduct, or acts, that were prohibited by the military or naval service at the time of discharge.
- 3. Veteran's preference for service in Lebanon, Grenada, and Panama will be limited to those who received the Armed Forces, Navy, or Marine Corps Expeditionary Medal.
- 4. Resident of the State of New York at the time of layoff.

REQUIREMENTS FOR DISABLED VETERAN'S PREFERENCE:

- 5. Meet the requirements for veteran's preference as listed above.
- 6. Have a war-incurred disability rated at 10% or more by the Department of Veterans' Affairs at the time of layoff.
- 7. Be receiving payments from the Department of Veterans' Affairs or certified by the Department of Veterans' Affairs as entitled to receive payments for such disability based on a medical examination held within one year of the date of layoff, or receiving payments from the Department of Veterans' Affairs for a disability certified as permanently stabilized.

REQUIREMENTS FOR PREFERENCE AS SPOUSE OF 100% SERVICE DISABLED VETERAN:

- 8. Be the spouse of the disabled veteran and be the head of the household and domiciled with the veteran. Verification from the Federal Internal Revenue Service as head of the household will be required.
- 9. Have a spouse who meets the requirements for disabled veteran's preference listed above under 1 through 5.
- 10. Have a spouse who has a war-incurred disability rated 100% by the Department of Veterans' Affairs at the time of layoff.
- 11. Have a spouse who is either receiving payments from the Department of Veterans' Affairs for such disability based on a medical examination held within one year of the date of layoff or is receiving payments from the Department of Veterans' Affairs for such disability certified as permanently stabilized.

REQUIREMENTS FOR PLACEMENT ON MILITARY REEMPLOYMENT LIST:

- 1. Must have been granted leave from a full-time or temporary noncompetitive, labor class, or unclassified position at the time of entry into the military service.
- 2. The above-mentioned position must have been abolished or no longer in existence upon the termination of the employee's military service.
- 3. The employee must file a written request to DCAS within 90 days of termination of military duty for placement on a Military Reemployment List.

REQUIREMENTS FOR PLACEMENT ON CITYWIDE TRANSFER LIST FOR NONCOMPETITIVE/LABOR CLASS VETERANS AND EXEMPT VOLUNTEER FIREFIGHTERS:

- 1. Must be in the noncompetitive or labor class at the time position is targeted for abolishment.
- 2. Must meet the service requirements defined by Section 85 of Civil Service Law (numbers 1 to 4 under Requirements for Veteran's Preference above) or must be an exempt volunteer firefighter as defined in General Municipal Law Section 200.
- 3. These rights do not extend to positions of private secretary, cashier, or deputy of any official or department.

SECTION C

U.S. MILITARY RECORD (AS IT APPEARS ON DISCHARGE). [TO BE COMPLETED BY VETERAN/DISABLED VETERAN OR DISABLED VETERAN-SPOUSE]		
DISCHARGE ISSUED TO (NAME)		SERVICE/SERIAL NO.:
BRANCH OF SERVICE		SOCIAL SECURITY NO.:
DATES OF ACTIVE SERVICE (MM/DD/YY) _____ TO _____	TYPE OF SERVICE (Active, ACDUTRA, Other)	TYPE OF DISCHARGE (Honorable, under Hon. Conditions, Other than Bad Conduct or Dishonorable, Dishonorable Other)
IF SERVICE WAS IN LEBANON, GRENADA, OR PANAMA, DID YOU RECEIVE THE ARMED FORCES, NAVY, OR MARINE CORPS EXPEDITIONARY MEDAL? YES ___ NO ___		
TO BE COMPLETED BY DISABLED VETERAN OR DISABLED VETERAN-SPOUSE ONLY		
V.A. CLAIM NO.	LOCAL OR REGIONAL OFFICE WITH YOUR V.A. RECORDS	
<p>WARNING: Section 10-154 of the Administrative Code of the City of New York and Section 210.45 of the Penal Law make it a crime to knowingly falsify any information on this form, and any applicant who knowingly falsifies any such information may be punished by a fine, imprisonment, or both. In addition, knowingly falsifying any material information on this document will automatically cause the disqualification of the applicant.</p> <p>DECLARATION (by Applicant): I declare that I have read the above warning and that all the statements contained herein are true and correct to the best of my knowledge.</p>		
SIGNED _____		DATE _____

CITY OF NEW YORK – DEPARTMENT OF CITYWIDE ADMINISTRATIVE

SERVICES 1 CENTRE STREET, NEW YORK, NY 10007

TRANSFER - WAIVER

INSTRUCTIONS

EMPLOYEE: Type or print in ink. Sign form and return to your agency Personnel Officer.

Keep a copy for your records.

PERSONNEL OFFICER: Return original to Department of Citywide Administrative Services, Office of List Management and Audit, 1 Centre Street, 21st Floor. Retain a copy for your records. Attach the original to the Disposition of Certification.

NAME	EMPLOYEE ID NUMBER
TITLE	AGENCY

I, _____, have been offered a transfer to the position of
(name)

_____, in _____
(title) (agency)

due to the fact that I am scheduled to be laid off from my present position. I hereby decline this transfer. I understand that this refusal is IRREVOCABLE, and that I am waiving any future claim to the aforementioned transfer position.

(Signature)

(Date)

INSTRUCTIONS FOR COMPLETING LAYOFF LISTS IN THE ATTRITION MANAGEMENT SYSTEM (AMS)

HOW TO ENTER A TERMINATION/LAYOFF RECORD

1. Log on to AMS via the Agency Inquiry System (AIS).

AAAAAAAAAAAAAAAAAAAAAA AAAAA AAAAAA AAAAAA	IIII IIIIIIIIIIIIIIIIIIIII IIIIIIIIIIIIIIIIIIIII IIIIIIIIIIIIIIIIIIIII	SSSSSS SSSSSS SSSSSSSSSSSSSSS SSSSSSSSSSSSS SSSSSSSSSSSS
PF1 - EXIT	USER ID: <u> </u>	PASSWORD: <u> </u>
		KEY ENTER...

2. Enter '40' (Attrition Management System) in the Function Code field.

FUNCTION	CODE
PERSONNEL INQUIRIES.....	10
CERTIFICATION PROCESSING.....	20
REFERENCE TABLES.....	30
ATTRITION MANAGEMENT SYSTEM.....	40

FUNCTION CODE: 40

3. On the main AMS Menu, enter '10' (Add Employee to Plan).

FUNCTION	CODE
ADD EMPLOYEE TO PLAN	10
CHANGE EMPLOYEE DATA ON PLAN	20
REMOVE EMPLOYEE FROM PLAN	30
INQUIRE ON EMPLOYEE ON PLAN	40
BROWSE PLAN	50
EMPLOYEE PAYROLL STATUS INQUIRY	65
MAINTAIN AGENCY TARGETS	70
MAINTAIN VACANCIES	75
ON-REQUEST REPORTS	80
REFERENCE TABLES	85
REDEPLOYMENT PROCESSING	90

FUNCTION CODE: 10

- On the “Add Employee to Plan” screen, enter ‘10’ (Termination/Layoff) in the Plan field. Enter the Plan Date (to be assigned by DCAS) in the Plan Date field (MM/DD/YYYY format).

PLAN	CODE
TERMINATION/LAYOFF	10
SEVERANCE	20
REDEPLOYMENT	30
OVERRIDE DATA	40
EARLY RETIREMENT	50

PLAN: 10
 PLAN DATE: 03272009 (MMDYYYY)

- Enter the affected employee’s Social Security Number or Employee ID in the corresponding field.

PLAN TYPE: TERMINATION/LAYOFF
 PLAN DATE: 03/27/09

EMPLOYEE SSN: _____
 OR
 EMPLOYEE ID: _____

- The next page displays the employee’s job history record(s). Enter an “X” next to the appropriate job record.

X	71	10124	PRINCIPAL ADMINISTRA	42510.0000	1	B	J	A	12/22/08
-	71	10251	CLERICAL ASSOCIATE	33276.0000	2	T	C	A	01/10/05
-	71	10251	CLERICAL ASSOCIATE	33276.0000	1	A	C	A	01/10/05
-	740	10251	CLERICAL ASSOCIATE	30403.0000	1	A	J	A	03/22/99
-	740	56057	COMMUNITY ASSOCIATE	35007.0000	1	A	N	A	08/20/03

- Review data on the selected job history record for accuracy.
 - If needed, make corrections in PMS/NYCAPS.

Additional Data Fields

- Layoff Unit field:**
 - Agency may leave this field blank or enter either the agency code or the unit of appropriation (UofA).

HOW TO CHANGE A TERMINATION/LAYOFF RECORD IN AMS

1. Follow steps one and two under **“HOW TO ENTER A TERMINATION/LAYOFF RECORD.”**
2. On the main AMS Menu, enter ‘20’ (Change Employee Data on a Plan).

FUNCTION	CODE
ADD EMPLOYEE TO PLAN	10
CHANGE EMPLOYEE DATA ON PLAN	20
REMOVE EMPLOYEE FROM PLAN	30
INQUIRE ON EMPLOYEE ON PLAN	40
BROWSE PLAN	50
EMPLOYEE PAYROLL STATUS INQUIRY	65
MAINTAIN AGENCY TARGETS	70
MAINTAIN VACANCIES	75
ON-REQUEST REPORTS	80
REFERENCE TABLES	85
REDEPLOYMENT PROCESSING	90

FUNCTION CODE: 20

3. Enter the affected employee’s Social Security Number or Employee ID in the corresponding field (See screenshot under step 5 of **“HOW TO ENTER A TERMINATION/LAYOFF RECORD.”**)
4. The next page displays the employee’s job history record(s). Enter an “X” next to the job record with the appropriate plan date and plan type of ‘LLO’.

(ENTER 'X' TO SELECT TARGET PLAN)										P: 1		
PICK PLAN	AGCY	TITLE	LV	CS	PLAN	SEVE	ACT	PLN	HIST			
PLAN	TYPE	CODE	CODE	TITLE	JSN	ST	ST	DATE	IND	CODE	ST	IND
X	LLO	71	10124	PRINCIPAL ADMINISTRA	1	B	J	03/27/09				A

5. The employee’s termination/layoff plan record will appear. Change the Comment field and/or the Preference Claim field.

PAYROLL ACTION		
PAYROLL REASON CODE:	EFF DATE:	PAYROLL CHG DATE:
ADDITIONAL DATA		
ACTION CODE:	ACTION DATE:	
HISTORY IND: A	HISTORY DATE:	HISTORY REASON:
	PLAN DATE: 03/27/09	
LAYOFF UNIT: 071	PREFERENCE CLAIMED: V	(D/V/F/BLANK)
COMMENT: _____		
PMS LAYOFF-DATE: _____	(MMDDYYYY)	
ENTERED BY: LCAJ 03/16/09		CHANGED BY: LCAJ 03/16/09
PF1 - MAIN MENU	PF2 - PREV MENU	KEY ENTER TO CHANGE...

HOW TO REMOVE A TERMINATION/LAYOFF RECORD IN AMS

1. Follow steps one and two under “**HOW TO ENTER A TERMINATION/LAYOFF RECORD.**”
2. On the main AMS Menu, enter ‘30’ (Remove Employee From Plan).

FUNCTION	CODE
ADD EMPLOYEE TO PLAN	10
CHANGE EMPLOYEE DATA ON PLAN	20
REMOVE EMPLOYEE FROM PLAN	30
INQUIRE ON EMPLOYEE ON PLAN	40
BROWSE PLAN	50
EMPLOYEE PAYROLL STATUS INQUIRY	65
MAINTAIN AGENCY TARGETS	70
MAINTAIN VACANCIES	75
ON-REQUEST REPORTS	80
REFERENCE TABLES	85
REDEPLOYMENT PROCESSING	90

FUNCTION CODE: 30

3. Enter the affected employee’s Social Security Number or Employee ID in the corresponding field (See screenshot under step 5 of “**HOW TO ENTER A TERMINATION/LAYOFF RECORD.**”)
4. The next page displays the employee’s job history record(s). Enter an “X” next to the job record with the appropriate plan date and plan type of ‘LLO’.

(ENTER 'X' TO SELECT TARGET PLAN) P: 1

PICK PLAN AGCY TITLE	LV CS	PLAN	SEVE ACT	PLN HIST
PLAN TYPE CODE CODE TITLE	JSN ST ST	DATE	IND CODE ST IND	
X LLO 71 10124 PRINCIPAL ADMINISTRA	1 B J	03/27/09		A

5. For removal because a permanent targeted employee received a Special Transfer out of the agency before the layoff date or the employee was not reached for layoff, enter reason code “**NLO**” in the History Reason field. For removal due to data entry error, enter reason code “**OTH**” in the History Reason field. Note the reason for removal in the Comment field. **Note: DO NOT use semicolons (;) in the Comment Field.**

PAYROLL REASON CODE:	PAYROLL ACTION	PAYROLL CHG DATE:
ACTION CODE:	EFF DATE:	ADDITIONAL DATA
HISTORY IND: A	ACTION DATE:	HISTORY REASON: OTH
LAYOFF UNIT: 071	HISTORY DATE:	
COMMENT: _REMOVED FROM PLAN 3/16/09_	PLAN DATE: 03/27/09	
PMS LAYOFF DATE:	PREFERENCE CLAIMED: V	
ENTERED BY: LCAJ 03/16/09	CHANGED BY: LCAJ 03/16/09	
PF1 - MAIN MENU	PF2 - PREV MENU	KEY ENTER TO REMOVE...

AMS REPORTS

1. Standard reports will be produced from agency input of layoff data into the Attrition Management System (AMS). This report will be accessed by DCAS, OLR, and OMB and will be provided to the agencies and to the unions for 30-day notice and for finalized layoff reports. The reports will include separate sections for permanent competitive, provisional, noncompetitive, labor class, unclassified, and exempt employees. Variations of these reports will be used for Noncompetitive/Labor Class Recall Lists.
2. AMS must be updated to reflect separations, transfers, and bumping to ensure accurate reporting.
3. **DO NOT** use semicolons (;) in the Comment Field. Semicolons in the Comments field will result in inaccurate reporting.

APPENDIX E

TIME, LEAVE, AND OTHER BENEFITS

This is a summary of the time and leave benefits for employees who are either laid off/terminated or transferred in lieu of layoff and are covered by the leave regulations cited below. For time and leave benefits related to transfers/and separations covering prevailing rate employees, agencies should review pertinent contract provisions. Although retention rights are based upon jurisdictional classification, regulations relating to leave balances are generally based upon whether the employee has managerial or non-managerial status.

I. ANNUAL LEAVE, SICK LEAVE, AND COMPENSATORY TIME BALANCES

A. Transfers

1. Non-managerial

If a non-managerial employee is transferred to another agency covered by the Leave Regulations for Employees who are Under the Career and Salary Plan in lieu of layoff, the employee's accrued annual leave, floating holiday and Blood Donor compensatory time is transferred with him/her (Citywide Agreement Article IX Section 2 and Career and Salary Plan Leave Regulations, Section 6.2.a.).

Accrued compensatory time may be transferred to the non-managerial employee's new agency at the discretion of such agency (Citywide Agreement Article IX Section 3 and Career and Salary Plan Leave Regulations, Section 6.2.b.).

Pursuant to the Leave Regulations for Employees Who Are Under the Career and Salary Plan (Section 2.6.b.) and the Citywide Agreement (Article V Section 2.c), a transferred employee who has any accrued compensatory time which is not accepted by his/her new agency, will be paid in a lump sum, in accordance with the provisions of Executive Order No. 76 dated March 23, 1973 or Executive Order No. 30 dated June 24, 1975, and the Fair Labor Standards Act.

If a non-managerial employee with an accrued sick leave balance is transferred in lieu of layoff to another agency covered by the Career and Salary Plan Leave Regulations, the employee's sick leave balances are transferred with him/her (Citywide Agreement Article IX Section 2 and Career and Salary Plan Leave Regulations Section 6.2.a.).

2. Managerial

If a manager moves from a Mayoral agency to another Mayoral agency in lieu of layoff, all annual leave, sick leave, floating holiday, managerial authorized leave days and compensatory time (including Blood Donor compensatory time) moves with him/her.

If a manager moves from a Mayoral agency to a non-Mayoral agency, the non-Mayoral agency does not have to accept the manager's leave balances. Any leave balances that are not accepted by the non-Mayoral agency, may be paid by the transferring Mayoral agency. Such payment (including payment for sick leave, if applicable) for a manager going to a non-Mayoral agency is at the discretion of the Commissioner of the Department of Citywide Administrative Services.

B. Layoffs

1. Non-managerial

Pursuant to the Leave Regulations For Employees Who Are Under The Career and Salary Plan (Section 2.6.b.) and the Citywide Agreement (Article V Section 2.c), non-managerial employees who leave City government or have a break in service due to layoff/termination based upon fiscal constraints, will receive a lump sum payment for accrued annual leave, in accordance with the provisions of Executive Order No. 76, dated March 23, 1973 or Executive Order No. 30, dated June 24, 1975.

Pursuant to the Leave Regulations for Employees Who are Under the Career and Salary Plan (Section 2.6.b.) and the Citywide Agreement (Article V Section 2.c), the laid off/terminated employee who has any compensatory time balances remaining, will be paid in a lump sum, in accordance with the provisions of Executive Order No. 76, dated March 23, 1973 or Executive Order No. 30, dated June 24, 1975, and the Fair Labor Standards Act.

2. Managerial

Pursuant to the Leave Regulations for Management Employees, managerial employees will receive their lump sum payment in accordance with the provisions of Personnel Order No. 88/5, dated April 28, 1988, as amended.

II. TERMINAL LEAVE/SICK LEAVE PAYMENTS

A. Terminal leave/sick leave payments will be made as follows:

1. Non-managerial

Pursuant to the Leave Regulations for Employees Who Are Under The Career and Salary Plan (Section 2.9.a and 2.9.d.) and the Citywide Agreement (Article V Section 17.d), full-time, per annum non-managerial employees who have at least ten years of continuous full-time City service, will receive $\frac{1}{2}$ of their accrued sick leave, up to a maximum of 120 days, in a lump sum, in accordance with the provisions of Executive Order No. 31, dated June 24, 1975, or the alternative terminal leave amount set forth in Section 2.9.b or 2.9.c as appropriate.

For those employees in prevailing rate titles (covered by Sect. 220 of the Labor Law of the State of New York), terminal leave is allowed for employees who work at least 250 days per year at the rate of one month for every ten years of service, (a) the rates of which are fixed in accordance with a Comptroller's determination made under Section 220 of the Labor Law of the State of New York, and (b) of service under the Leave Regulations for Employees Who Are Under the Career and Salary Plan, prorated for a fractional part thereof. If the prevailing rate employee so selects, and as an alternative to the above method of computation, terminal leave allowance may be computed on the basis of one day of terminal leave for each two days of unused sick leave accumulation to a maximum of one hundred (100) days terminal leave allowance. Under the latter option, terminal leave will be computed on the basis of work days, rather than calendar days. (Amendment to Appendix A from Leave Regulations For Prevailing Rate Employees).

2. Managerial

Pursuant to the Leave Regulations for Management Employees, managerial employees with at least ten years of continuous full-time City service, will receive $\frac{1}{2}$ of their vested or non-managerial sick leave, and, if they have a minimum balance of 60 current sick leave days, $\frac{1}{3}$ of their current sick leave balance, up to a total of 120 days, in a lump sum in accordance with the provisions of Personnel Order No. 88/5, dated April 28, 1988, as amended. Calculations for employees in Executive positions may vary.

3. Notes

- a. Total lump sum payment for managers and non-managerial employees cannot exceed the salary earned during the last 12 months of City service or six months for certain employees in Executive positions. Other maximum caps may also apply.

- b. If an employee who is separated from the City later reenters City service, the rate at which the employee accrues annual leave and sick leave may be affected. For determining annual leave and sick leave accrual rates, time spent on a Preferred List is not a break in service; however, it is not counted as time served. Separated employees who reenter City service should contact their personnel officers to determine correct accrual rates.

CALCULATING ANNUAL LEAVE AND SICK LEAVE ACCRUALS

For the purpose of calculating annual leave rates of accrual for competitive, provisional, labor class, exempt and noncompetitive employees laid off/terminated and then rehired (not from a Preferred/Recall list), a break in service is deemed to be more than 31 calendar days. For permanent competitive, permanent/probationary competitive and labor class employees who resign and are subsequently appointed from an open competitive list, or are reinstated, a break of one year or less is considered to be continuous service. Permanent/probationary competitive, provisional, labor class, noncompetitive and exempt class employees who are laid off/terminated shall be credited with continuous service for purposes of annual leave accrual and sick leave accrual for time spent on a Preferred/Recall List. However, time in non-pay status shall not be counted as part of the years of service in determining annual leave accrual and sick leave accrual rates (Leave Regulations For Employees Who Are Under The Career And Salary Plan Section 2.1, 1990-92 Citywide Agreement Letters of Understanding, and “Leave Regulations for Management Employees”, Section 2.0.)

An employee whose service with the City has been interrupted by a break in service will be eligible for terminal leave for the entire period of service only if the break in service was less than 12 months duration. If the break in service was greater than one year, the employee will be eligible for terminal leave only for employment subsequent to such break. For purposes of calculating allowable terminal leave, the time spent on a competitive class Preferred List or the Citywide Labor Class Preferred List is not considered as a break in service. This period of time, however, is not counted as a part of the total years of service on which terminal leave credits are based. (Leave Regulations For Employees Who Are Under The Career And Salary Plan Section 2.9)

UNEMPLOYMENT INSURANCE

Unemployment Insurance may be available to those laid off NYC employees (claimants) who file for benefits through the New York State Department of Labor by calling the telephone claim center (TCC) at 1-888-209-8124 or filing an application online at <https://dol.ny.gov/>. **The New York State Department of Labor website provides detailed information regarding unemployment benefits online at <https://dol.ny.gov/unemployment/file-your-first-claim-benefits>.**

Those having a language difficulty or a speech or hearing impairment may request that a friend or relative assist in the telephone claim process. Claimants should be aware that instructions are provided in several languages other than English. Hearing impaired individuals who have TTY/TDD (Telephone Device for the Deaf equipment) may file a claim and certify for weekly benefits by calling a relay operator at 1-800-662-1220 and requesting the relay operator to call 1-888-783-1370. . Only callers with TDD equipment will receive service at these numbers.

To qualify for benefits, the claimant must:

- Have lost his/her job through no fault of his/her own.
- Be ready, willing and able to work.
- Have not refused an offer of employment.
- Have worked and been paid wages for employment in at least two calendar quarters in his/her base period (the base period is the first four of the last five completed calendar quarters prior to the calendar quarter in which your claim is effective).
- Must have been paid at least \$2600 in wages in one of the calendar quarters in his/her base period.
- Have been paid total wages in his/her base period equal to at least one and one-half times his/her high quarter wages.

Note: Employees who refuse to bump to another title or to transfer to another agency may find their unemployment insurance eligibility adversely affected.

What Does the Claimant Need To Have When Filing?

The claimant should have available:

- His/her Social Security number.
- New York State driver's license or Motor Vehicle ID card number if he/she has one.
- Current mailing address and zip code.
- A telephone number where he/she can be contacted for additional information.
- Alien registration card number, if he/she has one.
- The names and addresses of all employers for whom he/she has worked within the last 18 months.

How Is The Weekly Benefit Rate Determined?

The claimant's original benefit rate (the amount that he/she may be entitled to collect) is calculated on his/her actual high quarter wages. The weekly benefit rate is one twenty-sixth ($1/26$) of the high quarter wages paid to the claimant in his/her base period, except if his/her high quarter wages are \$3575 or less, then the weekly benefit rate is one twenty-fifth ($1/25$) of his/her high quarter wages. Wages are applied to the quarter in which they are paid. The current maximum rate is \$504.

What Is The Maximum Amount Of Benefits The Claimant Can Receive?

Although the claim lasts one year (his/her benefit year), during that time the claimant can only receive 26 times his/her full weekly rate (or the same amount of money for weeks of partial unemployment). Depending upon legislation in effect at the time of layoff, the maximum benefit may be increased to provide additional assistance.

HEALTH BENEFITS

City health plan benefits will be discontinued as of the last day for which the laid off employee is paid. The employee's basic health insurance is provided by the City and is different from his/her Union Welfare Fund benefits, which may include dental, vision and prescription drug benefits. The employee's basic health plan covers doctor visits and hospitalization. Depending upon individual circumstances, several options are available to employees who wish to continue benefits. These options are detailed in the *Summary Program Description*, available on the Web site at www.nyc.gov/olr, and are outlined below:

- Health Plan Benefits Conversion Option

Laid off employees may purchase health coverage on an individual direct-pay basis. Benefits under this type of policy are of indefinite duration and may vary from the City's "basic" benefits package in both the scope of the benefits and the cost. An employee electing the conversion option must notify the health plan of his/her request for such coverage within 45 days of termination of coverage under the City's group insurance. (For the 36 months following separation, the employee could elect COBRA (see below)

For further information on the scope and cost of benefits available, employees must contact their current health plan directly.

- COBRA Continuation Benefits

The Federal Consolidated Omnibus Budget Reconciliation Act of 1985, also known as COBRA, requires that the City offer employees and their families the opportunity to continue group health and/or welfare fund coverage at 102% of the group rate, in certain instances where the coverage would otherwise terminate. All group benefits, including optional benefits riders, are available. Welfare fund benefits which can also be continued under COBRA are dental, vision, prescription drugs, and other related medical benefits. Employees whose health and/or welfare fund coverages are terminated due to a reduction in hours of employment or termination of employment (for reasons other than gross misconduct) may continue the benefits received as an active employee for a period of 36 months at 102% of the group cost under COBRA.

Employees eligible for COBRA will receive a COBRA package, which includes an enrollment application, the cost of the plan and welfare fund contact information, from their agency personnel office or NYCAPS Central, whichever is applicable. To elect continuation of health coverage under COBRA, the COBRA eligible person must complete the "COBRA - Continuation of Coverage Application." Employees should contact the applicable welfare fund if they wish to purchase welfare fund benefits.

Eligible persons electing COBRA continuation coverage must do so within 60 days of the date on which they receive the COBRA form, subject to temporary/emergency federal regulatory changes. Premium payments will be made on a monthly basis.

- Disability Benefits:

Those who have been declared totally disabled, as determined by their health plan, because of an injury or illness on the date of termination, remain covered for that disability up to a maximum of 18 additional months for the GHI-CBP/EBCBS plan, and up to 12 months for all other plans, except GHI Senior Care/EBCBS, which provides only 31 days of additional coverage. This extension of benefits applies only to the disabled person and only covers the disabling condition. Under the GHI/EBCBS plan, if a subscriber is hospitalized at the time of termination, hospital coverage is extended only to the end of the hospitalization.

Employees must contact their health plan for further details.

- Health Plan Benefits Upon Retirement

The below is from the New York City Health Benefits Program - Summary Program Description, as of April 2020.

The following summarizes eligibility policy as of the date of this publication. The actual eligibility for benefits will be determined by the City policy in place at the time of retirement, and the benefits applicable should be ascertained at that time. Employees should speak with the current employer to ascertain eligibility.

RETIREES ARE ELIGIBLE (IF ALL OF THE CRITERIA ARE MET):

1. Have at least ten (10) years of credited service as a member of a retirement system maintained by the City or the Department of Education (employees of the City on or before December 27, 2001, must have at least five (5) years of credited service as a member of a retirement system maintained by the City);

OR

2. Have at least fifteen (15) years of credited service as a member of either the Teachers' Retirement System or the Board of Education Retirement System and were an employee of the City or the Department of Education appointed on or after April 28, 2010, and held a position represented by the recognized teacher organization on the last day of paid service. Where this paragraph and paragraph (1) both apply, this paragraph controls.

AND

3. During the minimum period of credited service required for eligibility under paragraph (1) or (2) above, or at the time of separation from employment with the City or the Department of Education, were working regularly for twenty (20) or more hours a week and eligible for City health benefits as an employee of the City or the Department of Education.

AND

4. Receive a pension check from a retirement system maintained by the City or the Department of Education.

EXCEPTIONS:

Accidental disability retirement: Retirees from the City or the Department of Education because of an accidental disability, as a current or former member of a retirement system maintained by the City or the Department of Education, and who receive a pension check from such system, are eligible for retiree health benefits.

- Union or Other Welfare Fund Benefits

Employees who are members of a welfare fund administered by a union or the City-administered Management Benefits Fund, should contact their welfare fund to determine what benefits may be continued. Dental, vision care, prescription drugs, and other related medical benefits provided by a welfare fund may be offered through COBRA continuation coverage. Other welfare fund benefits might be offered through conversion to direct payment.

- Medicaid and Medicare

Employees should contact the Human Resources Administration Office at 888-692-6116 concerning Medicaid or contact their local social security office for information concerning Medicare. Medicare benefits are provided only for those over 65 or those persons with disabilities who are receiving Social Security Disability Insurance (SSDI).

EMPLOYEE ASSISTANCE PROGRAMS

The City of New York offers its employees and their dependents a helping hand through a network of Employee Assistance Programs (EAP). Generally, EAP provides education, information, counseling and individualized referrals to assist with a wide range of personal and social problems.

Confidentiality laws and regulations protect the personal information that may be discussed with the EAP. Except in certain extreme situations, information will not be released without the employee's written permission.

EAP PROGRAMS

CONTACT INFORMATION

New York City Employee Assistance Program
250 Broadway 28TH floor
New York NY 10006

(212) 306-7660
eap@olr.gov

Department of Sanitation
Member Assistance Program

(212) 437-4867

Department of Correction
CARE Program

(718) 546-2273

Housing Authority
250 Broadway 28th floor
New York NY 10006

(212) 306-7660
eap@olr.gov

NYC Health and Hospitals Corp
250 Broadway 28th floor
New York NY

(212) 306-7660
eap@olr.gov

NYC Department of Education
250 Broadway 28th floor
New York NY 10006

(212) 306-7660
eap@olr.gov

NYC Fire Dept
Counseling Unit

(212) 570-1693

NYC Police Dept
Employee Assistance Unit (EAU)
90 Church St Suite 1213
New York NY 10006

(646) 610-6730

Union EAP PROGRAMS

DC 37 Health & Security
Personal Services Unit (PSU)

United Federation of Teachers
Member Assistance Program (MAP)

NYC Police Organization Providing Peer
Assistance (POPPA)

CONTACT INFORMATION

(212) 815-1250

(212) 701-9620
mapinfo@uft.org

(212) 298-9111

Deferred Compensation Plan

Employees who are participating in the City's 457 or 401(k) Deferred Compensation Plan (DCP) and have severed from service with the City are eligible to receive distributions from their DCP accounts as soon as 45 days after they are no longer on City payroll.

Participants in the 457 Plan are eligible to begin distribution, without a penalty, at age 59½ while still working for the City or upon severance from City employment regardless of age. Regarding distributions from the Roth 457, these can be taken tax-free, provided the participant is age 59 ½ or older, and the initial Roth contribution was made at least five tax years ago. Participants in the 401(k) Plan can begin distribution upon severance from City employment. Generally, any distributions taken by a 401(k) Plan participant prior to age 59½ will become subject to a 10% early withdrawal penalty. However, there is no early withdrawal penalty if the participant is at least age 55 at the time of severance from City service. Distributions from the Roth 401(k) can be taken tax-free, provided the participant is age 59 ½ or older, and the initial Roth contribution was made at least five tax years ago.

Upon severance from City service, all DCP loans become immediately due and payable. The loan may be repaid by certified check, bank check, or postal money order. The loan will be offset automatically, if the participant is requesting a distribution of the account. Once offset, the outstanding loan amount will be subject to all applicable income taxes and will be reported on Form 1099-R.

Depending upon the age, participants are not required to begin distributions from the Deferred Compensation Plan immediately upon severance from City service. If a participant wishes to leave the funds in the account, no action is required. The DCP account will continue to have the opportunity to grow for as long as there is money in the 401(k) or 457. Taking distributions does not restrict the participant from moving assets among the DCP's various investment options. Quarterly administrative fees will continue to be deducted from the account, and any appreciation or depreciation will continue to be reflected in the account on a tax-favored basis.

Participants are, however, required to begin taking certain minimum distributions from the DCP account by the "required beginning date." The "required beginning date" is April 1st of the calendar year following the close of the calendar year in which the participant attains age 72 or the calendar year in which the participant retires from City service, whichever is later.

Generally, all post-service distributions that are not directly rolled over to another retirement plan or IRA will be reported on Form 1099-R in the year when paid and will be subject to a 20% mandatory federal tax withholding. The participant will be responsible for payment of all applicable state and local taxes on all taxable distributions. Participants over age 59½ may be eligible for an annual \$20,000 exemption from New York State taxes. Participants may want to consult with a tax advisor. Participants might also consider consolidating retirement assets in the New York City Employee IRA, the NYCE IRA. The NYCE IRA offers the same investment fund options as the Deferred Compensation Plan. For information on the NYCE IRA, please visit www.nyc.gov/nyceira.

For more information about DCP distribution options, or to obtain a Distribution Form,
E-6(a)

please visit the Plan's Web site at www.nyc.gov/deferredcomp to request the New York City Deferred Compensation Plan Distribution Guide for the 457 & 401(k) Plans or call the Plan at (212) 306-7760.

FLEXIBLE SPENDING ACCOUNTS (FSA) AND LONG-TERM CARE (LTC) INSURANCE PROGRAMS

This information is for FSA and LTC Insurance Program participants who are leaving City service.

Here are instructions for the following pre-tax benefits and Citywide programs:

- Flexible Spending Accounts Program

1. Dependent Care Assistance Program (DeCAP)

Once a participant terminates from City service, his or her participation in DeCAP will cease as of the termination date, or the last day of employment. The participant must notify the FSA Administrative Office in writing to terminate payroll deductions. Any remaining balance in the participant's DeCAP account will still be available for reimbursement upon receipt of a valid claim incurred during the Plan Year, provided that the claim dates reflect a period where the participant and his or her spouse remain actively at work or attend school full-time.

2. Health Care Flexible Spending Account (HCFSA) Program

The participant must meet his/her annual goal amount elected under the HCFSA Program regardless of employment status with the City. The participant must provide written notice to the FSA Administrative Office within 30 days prior to his or her termination date in order for the participant's remaining balance to be deducted from his or her last paycheck, or prorated among remaining paychecks, on a pre-tax basis. If the FSA Administrative Office does not receive this written notice, the participant has the option to be billed directly for the remaining balance, which must be paid to the HCFSA Program on a post-tax basis. If the participant chooses to contribute to the goal amount on a post-tax basis, he/she may submit claims through the end of the Plan Year and/or Grace Period for any services incurred during the same Plan Year and/or Grace Period.

3. Medical Spending Conversion (MSC) Health Benefits Buy-Out Waiver Program

Upon terminating from City service, the participant must complete and submit an MSC Program Enrollment/Change Form indicating termination of employment. The MSC Program will calculate the pro-rated incentive payment for the amount of time that the participant was enrolled in the Program and actively at work during that specific Plan Year. This taxable payment will be included in the participant's supplementary paycheck through the participant's former agency. The supplementary check will be issued in June or December of the Plan Year.

- Long-Term Care (LTC) Insurance Program

The City of New York LTC Insurance Program, insured through the Metropolitan Life Insurance Company ("MetLife"), is a portable program, meaning that the participant may continue his or her insurance coverage after separating from City service. As

an active employee, LTC premiums are taken as payroll deductions from the participant's paycheck. However, once the participant leaves City service, he or she will be billed directly by MetLife for premiums. The participant must notify the LTC Administrative Office of his or her termination date in order to convert to direct billing. The participant must continue to pay premiums directly to MetLife in order to avoid cancellation of coverage.

If participants have any questions, please contact the FSA / LTC Administrative Office, via e-mail by visiting www.nyc.gov/fsa To obtain the following forms, please download them from www.nyc.gov/olr:

- DeCAP Qualifying Event Mid-Year Change Form
- HCFSA Qualifying Event Mid-Year Change Form
- FSA Program Enrollment/Change Form (for DeCAP and HCFSA)
- Enrollment/Change Form for the MSC Health Benefits Buy-Out Waiver Program
- LTC Insurance Program Change Form

PENSION INFORMATION

I. General

Employees should be encouraged to visit the New York City Employees' Retirement System (NYCERS) website at www.nycers.org to learn about retirement benefits and/or to join NYCERS prior to being laid off. They will be able to register for a MyNYCERS account to obtain and manage information about their benefits and interact with a Client Services representative. They can also download the MyNYCERS mobile application from either GooglePlay or the App Store.

Similarly, employees scheduled for layoff who are members of a pension system other than NYCERS should contact that pension system. Members of the Teachers' Retirement System (TRS) or the Board of Education Retirement System (BERS), should be encouraged to contact the relevant system to learn about retirement benefits prior to being laid off. Information for the Teachers' Retirement System (TRS) can be found at www.trsnyc.org. Information for the Board of Education Retirement System (BERS) can be found at www.bers.nyc.gov.

A. Retirement Occurring On or After Layoff/Bumping Date:

An employee on a preferred/recall/transfer list may, subsequent to the layoff date, choose to retire subject to the eligibility requirements of his or her tier and pension plan. If the employee is on a preferred list for a competitive title, he may remain on such list upon retiring. If the employee is on a preferred list for a Labor Class title or on a recall/transfer list, the employee will have his name removed from such list.

B. Retirement Occurring Before Scheduled Date of Layoff/Bump

Such employee will not have his name placed on any of the above applicable lists even if such employee rescinds his or her retirement subsequent to the layoffs, subject to applicable law allowing members to withdraw a retirement application. Of course, if such rescission occurs prior to the layoff, then the employee is considered "laid off" and not retired. Applicable lay-off lists would be in effect.

II. Non-members of Retirement System

Employees who are not members of a New York City retirement system should consider joining a retirement system before leaving City employment. By joining, they will retain any and all membership rights under the current tier in the event they return to City employment or begin State employment in the future. If an employee applies to join NYCERS now, they will be placed in Tier 6.

MANAGEMENT BENEFITS FUND

There are certain MBF benefits that members may choose to continue after leaving City service. The following is a summary of these benefits.

- **Basic Life Insurance:** Coverage will continue for 31 days from the date of termination from the Fund. MBF will send out a Fund termination letter with information on converting this coverage to an individual policy. Participants may choose to: (1.) purchase an individual policy through Prudential with proof of good health, or (2.) convert the group policy to an individual policy without proof of good health. If a participant does not choose either of these options, coverage will be terminated. For more information, please contact The Prudential Insurance Company of America at (877) 899-2070.
- **Group Universal Life Insurance:** Current GUL participants who leave City service have the option to continue receiving GUL coverage and will be billed directly by The Prudential Insurance Company of America for their premiums. Participants can keep the entire coverage in force at the portable coverage rates as long as the participant continues paying premiums and as long as the Group Contract is in force. For information, please contact The Prudential Insurance Company of America at (800) 562-9874.
- **COBRA:** Under the provisions of the Consolidated Omnibus Budget Reconciliation Act, ("COBRA"), participants have the option to continue coverage under several of the MBF benefit programs by paying a monthly premium.

COBRA coverage is offered for 36 months after separation from City service.

Participants may elect COBRA continuation of: (a) MBF Superimposed Major Medical Plan (SMMP), Dental and Vision Care programs; (b) Dental and Vision Care programs only; or (c) SMMP only (Note: there is a \$10,000 individual/\$20,000 family of 2/\$30,000 family of 3 or more deductible under the SMMP if the member does not have any primary health coverage through a City health insurance plan or other group health plan).

If an MBF member separates from City service, COBRA coverage is also offered to the member's spouse/domestic partner, and the member's dependent child(ren) for 36 months after the member separates from City service.

Please be advised that the Agency's Human Resources personnel will have participants complete an MBF Form 1061 indicating that the participant has left City employment, and the effective date. For further information, or to receive a COBRA application, please refer to the MBF Web site at www.nyc.gov/olr or contact MBF at (212) 306-7290.

EMPLOYEE BLOOD PROGRAM COVERAGE

An employee is entitled to continued blood program coverage after leaving City service provided that the employee:

1. Is retiring with a City pension or is deferring the pension or vesting pension rights; and
2. Has given a total of eight pints of blood within the ten years prior to retirement; or
3. Has donated a total of 16 pints of blood at any time during the employee's City service; or
4. Has continued to donate after retirement until the employee has met either of the above requirements.

An employee continuing blood program coverage as a retiree who has a change of address must notify the Employee Blood Program of the New York City Department of Citywide Administrative Services, 1 Centre Street, 21st Floor, New York, NY 10007.

CHANGE OF ADDRESS

An employee whose name appears on a Preferred, Special Transfer, Promotion, or Open Competitive List, who changes address, must notify DCAS by email at certificationunit@dcas.nyc.gov or by mail at the Office of List Management and Audit, New York City Department of Citywide Administrative Services, 1 Centre Street, 21st Floor, Room 2150, New York, NY 10007.

An employee whose name appears on an Agency Non-competitive Recall or Citywide Labor Class Recall List, who changes address, must notify DCAS by email at askcst@dcas.nyc.gov or by mail at the Civil Service Transactions Unit, New York City Department of Citywide Administrative Services, 1 Centre Street, 21st Floor South, Room 2120, New York, NY 10007.