

STAFF REDUCTION: RIGHTS AND RESPONSIBILITIES

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It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way . . .

A Tale of Two Cities by Charles Dickens (1859)

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Which Statutory Protection Applies?

- Education Law Rights for Certified Employees:
 - Administrators
 - Teachers
 - Teaching Assistants
- Civil Service Law Rights for Classified Employees:
 - Some Administrators
 - Non-Instructional Support Staff
 - Professional Employees

Abolition Of Positions

- Board of Education is Free to:
 - Create
 - Abolish
 - Reorganize; or
 - Reassign Duties

➤ *(Education Law §§2510, 3013 and Civil Service Law, Section 80)*

Abolition Of Positions Must Recognize

- Tenure
- Seniority Rights

Note: Before abolishing a teaching position the District must consider adjusting teaching schedules within the tenure area of the abolished position to retain the most senior teachers

Abolition Of Position

1. The Board must abolish specific positions in a tenure area.
2. The Board must act by formal resolution and Board minutes should reflect such action in public session.
3. Notice must be provided to the affected employee in writing.

To Abolition A Position

- Step 1: Identify the Affected Tenure Area
- Step 2: Identify the least senior employee in the Tenure Area*
- Step 3: Place the excessed employee on a preferred eligible list for recall

*Unless that employee has bumping rights in another tenure area in which the employee is more senior.

Education Law

- Seniority Rights Based On Full-Time Actual Length of Paid Service in a Specific Tenure Area

Education Law

- Administrator or Teacher?

50% Rule: If more than 50% of duties are administrative, a person serves in an Administrative Tenure Area

In What Tenure Area is the Abolished Position?

- This is determined by the nature of the duties, not by certification or tenure status

Special Note:

- A collective bargaining agreement may grant different seniority rights in certain circumstances. Part-time service only is counted if a collective bargaining agreement grants that right.

Who is laid off?

- The teacher, teaching assistant or administrator with the least seniority in the tenure area of the abolished position.

Do substitute teachers have seniority rights?

- Only if the substitute teacher serves at least one full semester in the same tenure area preceding appointment to a full-time probationary position in the same tenure area. (Jarema credit.)

(NOTE: This does not apply to administrators.)

CONCURRENT SERVICE IN MORE THAN ONE TENURE AREA

- Teachers serve in the tenure area if they spend at least 40% of their time in the tenure area. A teacher can gain credit in more than one tenure area at a time.

Part-time Service as a Seniority Right is valid if:

- ✓ Kindergarten teacher
- ✓ Involuntary part-time service following full-time service, when the District requests the change

Teaching Assistants Cannot be “Specialized”:

- There is a single tenure area and only a single seniority list for teaching assistants.

Is the abolition of position a pretext to circumvent tenure?

Abolition of positions must be based on valid educational or business reasons and cannot be a substitute for discipline.

Constitutional or protected class rights of employees must be considered when positions are abolished.

Administrative Tenure Areas

- Administrative Tenure Areas are Not Contained in Regulation
- There is Broad Discretion in Establishing Administrative Tenure Areas

Administrative Tenure Areas

- Districts May Establish Administrative Tenure Areas by:
 - ✓ Title (e.g. principal)
 - ✓ School (e.g. principal – high school)

- Multiple Defined Tenure Areas

CAUTION: Administrative Tenure Areas

- Restructuring and Reorganizing for three successive years can be seen as a way to illegally and involuntarily transfer a person outside their tenure area.

Preferred Eligible List – Education Law

- 7 Years of Recall
- Most Seniority in District (Not in Tenure Area) Determines Order of Recall

CIVIL SERVICE LAW

Classified Service

Competitive

Non-Competitive

Labor

Exempt

Unclassified Service

Education Law Certified Employees

Elected Officials

CIVIL SERVICE LAW EMPLOYEES

- ❖ Collective Bargaining Agreement
- ❖ Municipal Civil Service Law Rules for City or County
- ❖ Civil Service Law

Generally, by law, local civil service agency will instruct you on order of layoffs of permanent competitive class employees, only.

Order of Layoff for Competitive Class

- ❖ Temporary
- ❖ Provisional
- ❖ Probationary
- ❖ Permanent Employees in a Title by Least Continuous Seniority in District

All other classes, unless municipal rules or collective bargaining agreement provide otherwise:

Any method of layoff that is non-discriminatory and objective.

Preferred Eligible List Civil Service Law

- ❖ 4 Years of Recall – Most Senior Employee First

Special Seniority Rules for Veterans, Blind, etc.

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Bumping Rights in Line of Promotion for Competitive Class Positions

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Differences to Remember Between Civil Service Law and Education Law Layoffs

Education Law

Seniority – Full-time Regular Service in Probationary or Permanent Tenure Area

Preferred Eligible List - 7 years

Recall Based on Seniority in District, (not in Tenure Area)

Civil Service Law

Seniority – Continuous Service in the Classified Service From Original Permanent Appointment Date (Comp, Non-Comp, Labor & Exempt)

Preferred Eligible List - 4 Years

Recall Based on Seniority – Most Senior First