

**Tompkins County**  
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***Information for Employees Regarding Layoff Rules & Procedures***

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The purpose of this document is to provide each employee with basic information regarding how a layoff would occur if it should be required. While the Personnel Department does not control the actions of the Legislature or Department Heads, we are committed to ensuring that your rights are upheld by supplying you with accurate and timely information about laws, rules and procedures governing all aspects of employment with the county. We hope you will keep this document as a reference and that you will contact us if you have questions about it or about a specific situation.

The process of layoffs, should they occur, is governed by Civil Service law, Sections 80, 85 and 86, Rule XXV of the Civil Service Rules for Tompkins County, and the relevant sections of our collective bargaining agreements. The State publication "A Guideline for the Administration of Reductions in Force in Local Governments" is also used as a resource by this department. A copy of the Civil Service Rules for Tompkins County can be downloaded from our web site in PDF format. Go to <http://www.tompkins-co.org> Click on the "Employment" button, then click on the "Civil Service Rules" link. The following describes the important components of the process.

**SENIORITY ROSTERS:** A seniority roster is a collaborative effort between appointing authority and the Personnel Office. Tompkins County Personnel makes the initial roster, which is double checked internally. The roster is then shared with the Department Head. A Department Head or appropriate supervisor is required to triple-check the roster for accuracy. The document is revised, if necessary, and at that point becomes open to potentially affected employees within the department. Once it becomes open, employees have the right to check the document for accuracy and appeal to the Commissioner of Personnel if the employee feels that the roster is incorrect. The appeal process is vital to resolve questions or correct errors and is encouraged at all steps in the process.

There are four different groups in the classified service; **COMPETITIVE, EXEMPT, NONCOMPETITIVE AND LABOR**. Each group is treated a little differently in a layoff situation.

**Competitive Class** employees are granted clear and specific layoff rights under Civil Service law, Sections 80 and 85, and the local Civil Service Rules for Tompkins County, Rule XXV. **All employees in a given title are listed on the Seniority Roster.** The first consideration is the Retention Standing of all individuals in a given title. **Retention standing is comprised of two components: Status** (whether the employee is Permanent, Probationary, Contingent Permanent, Provisional or Temporary) **and Seniority.** Seniority is defined as the amount of time an individual holds permanent status in any position in the classified service with this organization. The **classified service** encompasses the Exempt, Labor, Noncompetitive and Competitive classes of civil service. Although temporary, provisional and contingent permanent employees hold no status, they do have relative retention standing among other temporary, provisional and CP employees.

The status and seniority of each employee is evaluated against the retention standing of the other employees in the title. Those permanent employees with the most seniority have greatest retention standing. Probationary, Contingent Permanent, Provisional and Temporary employees have no standing except among themselves. Of these, only probationary employees have the right to be added to a Preferred list. A break in service from this organization of less than one year is not counted as an interruption in service. If the break in service is greater than one year, seniority starts from the date of the new appointment. The only

exception to this rule is that individuals who have transferred in from some other civil service entity have the right to bring their seniority with them. If the title being abolished is above the entry level, those employees may have *bump or retreat* rights. Seniority rosters show who has the right to bump whom or what position someone has the right to retreat to and who they would displace in that situation. Bump and Retreat can only occur to other competitive class titles.

**"Bump"** means to displace another less senior employee in a title that is considered to be in a direct line of promotion and it must occur in the same layoff unit. **"Direct Line"** is strictly construed to mean any series of titles having the same generic root. For Example (because they have the same generic root title of "Clerk"), a Principal Clerk could bump a Senior Clerk who could in turn bump a Clerk. Correspondingly, a Principal Clerk could not bump a Senior Typist or a Keyboard Specialist because they are not direct line titles, even though they are all clerical titles. There is no bumping across departmental lines. The employee need never have held the lower level title in order to be eligible for bumping rights. All that is required is that the employee has greater retention standing than the person that they are looking to bump and that it is in a direct line of promotion.

**"Retreat"** means to displace the least senior employee in the layoff unit in the last lower level title (not a specific position) held on a permanent basis by the retreat eligible employee. Retreat can only occur when no lower level direct line titles exist in the layoff unit, or when the lower level direct line titles exist but are unoccupied. For example: if I were a Social Welfare Examiner who took an appointment to Casework Assistant from an open-competitive list I may have retreat rights to Social Welfare Examiner because there is no direct line promotion title below Casework Assistant. However, the least senior employee in that title must have less seniority than me or it cannot occur.

**War Veterans** have additional rights afforded to them under Subsection 7 (2) of Section 85 of the Civil Service law. This section decrees that the permanent date of appointment for **disabled veterans** shall be **sixty months earlier than the actual date of permanent status**; Subsection 7 (3), indicates that the permanent date of appointment for **non-disabled veterans is thirty months earlier than the actual date**. **The only way for us to determine veteran eligibility is to pull all of the personnel files for all candidates for layoff and look through them.** The Veteran question on the first page of the application gives us a quick answer as to whether we need to look further. If yes, then we look for the DD-214 military discharge papers which would demonstrate whether or not the employee was active during a war or conflict period (criteria available upon request) and received an honorable discharge. **Please note** that it is the employee's responsibility to make sure that we have military discharge papers on file that will enable us to determine if an employee qualifies for back-dated service time. If your service time is approved, the employee will be ranked on the layoff roster with backdated dates as specified above. The Seniority Roster is sorted showing retention standing of all employees in a title from greatest to least. The Department Head must remove employees from the bottom of the list first and work their way up. When a layoff occurs, a **Preferred List** is established containing the names of those employees who have been laid off and it is **valid for a period of four years** from the date of layoff. When funding reappears, the County is required to offer the most senior employee on the Preferred List the first opportunity for reinstatement.

#### **RIGHTS FOR THE OTHER THREE CLASSES ARE AS FOLLOWS:**

**Exempt class** employees are "at will employees" and have absolutely no seniority roster, preferred list or recall roster rights, even if they are blind, a veteran or an exempt volunteer fire fighter. If targeted for reduction, these employees can simply be let go. Seniority can be considered but is not mandated.

**Labor class** employees are "at will employees" and as a general rule have no preferred list or recall roster rights. If targeted for reduction, these employees can simply be let go. Seniority is not mandated by law but a union may have negotiated rights above and beyond what the law provides. Our Labor class employees have negotiated "Recall Roster" rights for a period of two years. The only other right that a Labor class employee may have is outlined in Section 86 of the law. This says that war Veterans and Exempt Volunteer Firemen in the non-competitive or labor classes "shall not be discharged from the public service, but shall be transferred to a similar position wherein a vacancy exists". This right to transfer must be demanded by the employee and is good for one year and can only be exercised where a vacancy exists.

**Non-competitive class** employees are not afforded rights under civil service law, however, the Blue Collar Contract indicates that "the County shall determine that layoffs are necessary" and provides for two years of reinstatement eligibility on a "recall roster" with "consideration being given to seniority". An arbitrator has interpreted the statement "consideration being given to seniority" to mean that seniority will be the deciding factor when making a layoff decision regarding non-competitive employees. However again, Section 86 of the law provides that war Veterans and Exempt Volunteer Firemen in the noncompetitive or labor classes "shall not be discharged from the public service, but shall be transferred to a similar position wherein a vacancy exists". This right to transfer must be demanded by the employee and is good for one year (contract gives them two) and can only be exercised where a vacancy exists. Basically in the NC and Labor classifications, war veterans and Exempt Firemen have some retention rights. Noncompetitive class people don't have the bump or retreat option.

The Commissioner and staff of Tompkins County Personnel will exercise due diligence in ensuring that all seniority rosters are error-free and will respond promptly to any questions you may have. I hope that this information has been helpful. If you have further questions, please feel free to contact the Personnel Department at 274-5526 and ask for Stephen Estes. Thank you.