

# LAYOFFS:

# Know your rights

The union is fighting Mayor Bloomberg's threat to lay off thousands of municipal workers this year and next. In addition, in the event of layoffs, DC 37 will also work to ensure that fair procedures are followed and that members' rights are respected.

## Competitive Class Employees

Layoff procedures for permanent civil servants are governed by the Civil Service Law.

- Civil Service Law requires that all provisionals in a layoff title must be terminated prior to any permanent incumbent being laid off.
- Layoffs of competitive class employees in the same title must take place in the following order: provisionals, probationers, permanents.
- Provisional (pure and step-up) and temporary employees can be terminated without regard to seniority. Provisionals 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. Step-up provisionals have no greater rights to remain employed than pure provisionals; however, they can return to their permanent title.
- Permanent per-diems have the same Civil Service Law protections as permanent (per-annum) civil servants.

## Seniority

- Civil service seniority is the governing factor in the layoff of permanent and probationary employees.
- Although seniority is based on total continuous service, it is applied within each layoff unit, for each title for which layoffs are contemplated. For example, assuming there are no provisional Accountants anywhere in the City, one agency can lay off permanent

Accountants with 10 years of service, even though another agency has permanent Accountants with 2 years of service.

- Regardless of seniority, probationary competitive class employees in each layoff unit are laid off before any permanent employees.
- Seniority is based upon the first date of permanent service in the classified service (competitive, noncompetitive, exempt, labor-class), in which probation has been completed, followed by continuous service.
- Civil Service Law allows for additional seniority for eligible veterans, disabled veterans, and spouses of disabled veterans. Persons who are blind receive absolute preference in retention.
- Seniority date ties are broken in the following ways: those employees hired from a civil service list with an earlier established date are given priority over those hired from a later established list. Within each list, employees are ranked in order of their list number.

## Special Transfer Lists

- In lieu of layoff, permanent/probationary employees are placed on a Special Transfer List whenever provisional employees are serving elsewhere in the City in the same or similar titles or where vacancies exist in such titles.
- Appointments from Special Transfer Lists must be made in number order. The "one-in-three" rule does not apply.

Employees must be transferred at their current salary.

- If the number of provisionals is insufficient to exhaust the entire Special Transfer List, then DCAS may make such list appropriate to a different title where there are provisionals serving.
- Employees whose names are certified from Special Transfer Lists and who decline a job offer will instead be bumped down to a lower title, if applicable (employee must have served in such lower title, and passed probation, and must have greater seniority than the employee in the lower title who is to be displaced), or laid off and placed on an Agency Preferred List and a Citywide Preferred List.

## Bumping

- Permanent and probationary employees have bumping rights. This means that they can displace a permanent/probationary employee with less seniority in a lower title in the same layoff unit. If there are no lower-level occupied positions in the direct line of promotion, then the employee may displace an employee in a title previously held that is in another occupational group.
- Employees who hold permanent competitive leave lines and are laid off from step-up provisional, noncompetitive or labor-class positions will return to their permanent competitive titles.
- In those cases, where an employee is bumped to a lower title, they must

receive a salary equal to that which would have been received had the employee served in the lower title all along. However, at the agency's discretion, the employee may continue to receive his or her former salary, as long as it is not greater than the maximum of their new title.

## Non-competitive class and Labor class employees

- Non-competitive class and labor class employees are laid off in inverse order of the date of their original appointment to the agency in the layoff title.
- Seniority ties are broken by Social Security number, derived from a sequence of the last five and then the first four digits, with the lowest number receiving the greatest seniority.
- An agency can set different layoff units for labor class or non-competitive employees, meaning that the layoff unit may be a bureau or division of the larger agency.
- Within a particular title, all probationary employees must be laid off before those who have completed probation.
- Non-competitive class and labor class employees who are veterans or exempt volunteer firefighters have rights to be placed on a Citywide Transfer List for similar vacant positions in other agencies.
- Non-competitive employees who are laid off have their names placed on an agency recall list in seniority order. Employees remain on such list up to a maximum of four years from the date of layoff.