

CHAPTER 8

LAYOFFS

Authority

N.J.S.A. 11A:2-6(d), 11A:2-11(h), 11A:4-7, 11A:4-9, 11A:4-12, 11A:6-28, 11A:8-1 through 11A:8-4.

Source and Effective Date

R.1995 d.251, effective April 21, 1995.
See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

Executive Order No. 66(1978) Expiration Date

Chapter 8, Layoffs, expires on April 21, 2000.

Chapter Historical Note

Chapter 8, Layoffs, was adopted as R.1990 d.49, effective January 16, 1990. See: 21 N.J.R. 3340(a), 22 N.J.R. 169(a). Pursuant to Executive Order No. 66(1978), Chapter 8 was readopted as R.1995 d.55, effective December 30, 1994. See: 26 N.J.R. 3518(a), 27 N.J.R. 482(a).

Pursuant to Executive Order No. 66(1978), Chapter 8 was readopted as R.1995 d.251. See: Source and Effective Date. See, also, section annotations.

Cross References

Applicability of this chapter to SES members and positions, see N.J.A.C. 4A:3-2.3 and N.J.A.C. 4A:3-2.9.

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SUBCHAPTER 1. PROCEDURES

4A:8-1.1 General

(a) An appointing authority may institute layoff actions for economy, efficiency or other related reasons.

1. Demotions for economy, efficiency or other related reasons shall be considered layoff actions and shall be subject to the requirements of this chapter.

(b) The Commissioner or authorized representative of the Department of Personnel shall determine seniority and designate lateral, demotional and special reemployment rights for all career service titles prior to the effective date of the layoff and have such information provided to affected parties.

Amended by R.1995 d.251, effective May 15, 1995.
See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

Case Notes

Negotiations with union concerning Department of Environmental Protection's reduction of employees' workweek were preempted by statute and regulations that created comprehensive demotional layoff scheme. *State v. Communications Workers of America, AFL-CIO*, 285 N.J.Super. 541, 667 A.2d 1070 (A.D.1995), certification denied.

Reduction in plumbing subcode official's work hours and compensation was motivated only by budgetary concerns and was done in good faith and did not violate Uniform Construction Code Act. *Voges v. Borough of Tinton Falls*, 268 N.J.Super. 279, 633 A.2d 566 (A.D.1993), certification denied 135 N.J. 466, 640 A.2d 848.

Statute which permitted lay off of permanent public employee superseded statute providing that an injured public employee receiving workers' compensation benefits was to continue on the payroll. *Novak v. Camden County Health Services Center Bd. of Managers*, 255 N.J.Super. 93, 604 A.2d 649 (A.D.1992).

Authority to regulate causes of removal and suspension. *State v. Local 195, IFPTE*, 179 N.J.Super. 146, 430 A.2d 966 (App.Div.1981) certification denied 89 N.J. 433, 446 A.2d 158.

Employee improperly removed after suspension for same infraction. *Newark v. Copeland*, 171 N.J.Super. 571, 410 A.2d 274 (App.Div.1980).

Dismissal of veterans protected by Veteran's Tenure Act in non-civil service county. *Cooper v. Imbriani*, 122 N.J.Super. 469, 300 A.2d 863 (App.Div.1973) affirmed 63 N.J. 535, 310 A.2d 457 (1973).

Evidence failed to establish bad faith cause of action in connection with layoffs and demotions in question. *Chepiga v. Mental Health and Hospitals*, 95 N.J.A.R.2d (CSV) 630.

Demotion of personnel assistants pursuant to reorganization of district under newly formed state operated school system was not in bad faith. *Dowling v. State Operated School District*, 95 N.J.A.R.2d (CSV) 603.

Demotions for reasons of economy were not arbitrary even though employees performed same tasks in lower positions. *Sowa v. Commerce and Economic Development*, 95 N.J.A.R.2d (CSV) 589.

Termination of handicapped offset machine operator was not discriminatory, but was in good faith for reasons of economy and efficiency. *Hansell v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 575.

Layoff of messenger by county clerk's office was in good faith when messenger's functions were performed by a fax machine and other employees. *Barnes v. Camden County*, 95 N.J.A.R.2d (CSV) 471.

Proof was lacking that reassignment of public defender office investigator was made in bad faith. *Jacobson v. New Jersey Public Defender*, 95 N.J.A.R.2d (CSV) 342.

Elimination of five water repairer positions to enable two electronic repairmen positions was in good faith for reasons of economy and efficiency. *Caggiano v. Township of Sparta*, 95 N.J.A.R.2d (CSV) 211.

Animosity towards public employee by others did not preclude layoff for economic reasons when those others had no role in layoff. *Matter*

of State Department of Corrections 1992 Layoffs, 95 N.J.A.R.2d (CSV) 63.

Layoffs and demotions made in good faith. In the Matter of State Dept. Of Corrections 1992 Employee Layoffs, 95 N.J.A.R.2d (CSV) 63.

Employees failed to prove that layoffs and demotions were made in bad faith. In the Matter of the State Dept. Of Health 1993 F.Y. Layoffs, 95 N.J.A.R.2d (CSV) 45.

Reasonable, logical, and good faith efforts to accommodate budgetary reductions meant that layoffs were made in good faith for economic reasons. Matter of State Department of Health 1993 Layoffs, 95 N.J.A.R.2d (CSV) 45.

Layoffs of public employees were not motivated by bad faith, but by economic considerations and were justified. Edwards v. Department of Community Affairs, 95 N.J.A.R.2d (CSV) 29.

Act of councilmen in eliminating public employee's position was not for reasons of animosity, but was for reasons of economy and was justified. De Prima v. Department of Administration and Finance, 95 N.J.A.R.2d (CSV) 20.

Layoff of Director of Planning was in good faith in effort to achieve government economy. DePrima v. Department of Administration and Finance, 95 N.J.A.R.2d (CSV) 20.

Layoffs of pharmacists were made in good faith. Gordon v. Department of Military and Veterans' Affairs, 95 N.J.A.R.2d (CSV) 6.

Layoffs of the pharmacists pursuant to decision of departments to use contractors for pharmaceutical substances rather than in-house pharmacists were justified for economic reasons. Gordon v. Department of Military and Veterans Affairs, 95 N.J.A.R.2d (CSV) 6.

Layoff of employee was proper. Adewusi v. Atlantic County Department of Administration, 95 N.J.A.R.2d (CSV) 5.

Layoff of landscape artist from county land office for reasons of efficiency and economy was not unjustified. Adewusi v. Atlantic County, 95 N.J.A.R.2d (CSV) 3.

Bad faith in eliminating jobs; proof. Privitera v. Treasury Department, 94 N.J.A.R.2d (CSV) 693.

Proof that layoff was instituted for reason other than economy, efficiency or other related reason. Meybohm v. Treasury Department, 94 N.J.A.R.2d (CSV) 665.

No bad faith was established; jobs abolished. In the Matter of the Essex County Layoffs, 94 N.J.A.R.2d (CSV) 601.

Township acted for reasons of efficiency and economy when it laid off employees. Aiello v. Township of Brick, 93 N.J.A.R.2d (CSV) 719.

Layoff of long-time employee was not in bad faith. Acchitelli v. Department of Environmental Protection and Energy, 93 N.J.A.R.2d (CSV) 716.

Employees failed to prove that township acted in bad faith in laying them off. Winslow Township Police Department Communications Operators v. Winslow Township, 93 N.J.A.R.2d (CSV) 713.

County department acted for reasons of economy and efficiency in layoff. LaMorte v. Ocean County Department of Consumer Protection, 93 N.J.A.R.2d (CSV) 669.

Good faith elimination of position. Vida v. Jersey City State College, 93 N.J.A.R.2d (CSV) 594.

Elimination of former job title; not bad faith. Barcheski v. Perth Amboy Department of Public Works, 93 N.J.A.R.2d (CSV) 565.

City acted in good faith. In the Matter of Atlantic City Layoffs, 93 N.J.A.R.2d (CSV) 533.

Demotion in lieu of layoff; good faith. Murphy v. Lacey Township Police Department, 93 N.J.A.R.2d (CSV) 487.

Layoff was for economic reasons. Wright v. Department of Human Services, 93 N.J.A.R.2d (CSV) 374.

Department-wide temporary layoffs done in good faith. Department of Personnel Employees v. Department of Personnel, 93 N.J.A.R.2d (CSV) 328.

Excessive absenteeism and lateness warranted removal. Thomas v. Bergen Pines County Hospital, 93 N.J.A.R.2d (CSV) 316.

City utility department eliminated position in good faith. Rudolph v. Egg Harbor City Utility Department, 93 N.J.A.R.2d (CSV) 313.

Good faith lay off. Dobiles v. Union County, 93 N.J.A.R.2d (CSV) 274.

Elimination of code enforcement officer position was in bad faith. Sholty v. Bloomfield Township Department of Community Development and Inspections, 93 N.J.A.R.2d (CSV) 221.

Layoff of borough engineering aid was in "good faith". Wudecki v. Fair Lawn Department of Engineering, 93 N.J.A.R.2d (CSV) 164.

Division of Motor Vehicles acted in "good faith". Field Monitors v. Division of Motor Vehicles, 93 N.J.A.R.2d (CSV) 103.

Layoff was result of compliance with environmental protection laws; laid off workers lacked necessary skills. Towns v. Carteret Borough Sewage Disposal Plant, 93 N.J.A.R.2d (CSV) 99.

Layoff of city employee was in good faith. Chadwick v. Township of Lakewood, 93 N.J.A.R.2d (CSV) 61.

Layoff was for reasons of economy. Cope v. Township of Parsippany-Troy Hills, 93 N.J.A.R.2d (CSV) 6.

Layoff; good-faith necessity to achieve economy. In the Matter of Bergen County Layoffs, 92 N.J.A.R.2d (CSV) 761.

Layoff was in good faith. Jones v. New Jersey Board of Regulatory Commissioners, 92 N.J.A.R.2d (CSV) 743.

Layoff of employees done in good faith. Boker v. City of Long Branch, 92 N.J.A.R.2d (CSV) 661.

Layoff was for political reason. Johnston v. Camden County, 92 N.J.A.R.2d (CSV) 617.

Layoff of director of occupational therapy was in good faith for reasons of economy. Gaines et al. v. Vineland Developmental Center, 92 N.J.A.R.2d (CSV) 516.

Layoff of administrative analyst was in good faith for reasons of economy. Exter v. Dept. of Commerce & Economic Development, 92 N.J.A.R.2d (CSV) 514.

Department of Human Services employee failed to establish that Department's decision to eliminate position was taken in bad faith. Frizino v. Department of Human Services, 92 N.J.A.R.2d (CSV) 428.

Laying off of parking enforcement officer was based in good faith. Moore v. Township of Middletown, 92 N.J.A.R.2d (CSV) 420.

School employee's layoff was for reasons of economy, efficiency, or other related reasons. Sparany v. Brick Township School District, 92 N.J.A.R.2d (CSV) 396.

Layoff of former assistant violations clerk of borough's department of revenue and finance was not taken in good faith for reason of economy, efficiency. Glab v. Borough of Belmar, 92 N.J.A.R.2d (CSV) 377.

City acted in good faith when data processing manager was laid off. Baldwin v. Department of Financial Management, Ocean City, 92 N.J.A.R.2d (CSV) 367.

Layoff; good faith. Dimaria v. Department of Human Services, 92 N.J.A.R.2d (CSV) 238.

"Good faith" layoff. *Davis v. Department of Central Services, Camden County*, 92 N.J.A.R.2d (CSV) 190.

Layoff; purposes of economy and efficiency. *Wooten v. Hillside Police Dept.*, 92 N.J.A.R.2d (CSV) 176.

There was no bad faith on the part of the appointing authority with respect to layoff rights. *Loughrey v. McCorkle Training School*, 92 N.J.A.R.2d (CSV) 13.

Layoff was in good faith. N.J.S.A. 11A:8-1, 11A:8-4. *Freeman v. City of East Orange*, 91 N.J.A.R.2d (CSV) 7.

Municipal layoff of permanent employees improper; proper procedures not followed; burden of proof lies with employee (citing former N.J.A.C. 4:1-16.3 and 16.6). *Clark v. City of Paterson*, 6 N.J.A.R. 25 (1980).

Layoff in bad faith; employees may be laid off for purposes of economy; however, CETA employees may not replace permanent employees (citing former N.J.A.C. 4:1-16.1); emergency, temporary, provisional and probationary employees must be laid off prior to permanent employees (citing former N.J.A.C. 4:1-16.2); lay off for economic purposes not to be in bad faith (citing former N.J.A.C. 4:1-16.3). *Tyler et al. v. City of Paterson*, 2 N.J.A.R. 272 (1979).

4A:8-1.2 Alternatives to layoff

(a) In State service, appointing authorities shall lessen the possibility of layoffs by offering and implementing, as appropriate, voluntary alternatives.

(b) In local service, appointing authorities should lessen the possibility of layoffs by considering voluntary alternatives.

(c) Alternatives to layoff may include, but are not limited to:

1. Granting of leaves of absence without pay to permanent employees, without loss of seniority for purposes of this Title, subject to the approval of the Department of Personnel;

2. Granting voluntary furloughs to employees (see N.J.A.C. 4A:6-1.23);

3. Allowing voluntary reduction of work hours by employees, which may include job sharing arrangements;

4. Providing employees with optional temporary demotional title changes; and

5. Other appropriate actions to avoid a layoff.

(d) Employee participation in alternatives is voluntary. Should a layoff occur despite alternative measures, employee layoff rights shall not be diminished by their participation in any such alternative measure; that is, the employee will be considered to have been serving in the original title and earning seniority in that title.

(e) Appointing authorities should consult with affected negotiations representatives prior to offering alternatives to layoff.

(f) Appointing authorities shall submit a plan for alternatives to layoff and obtain approval from the Department of Personal prior to implementation. The plan shall include time periods for all alternatives, a statement of the employees' right to be restored to prior status should a layoff occur during such time periods, and summaries of employee status and salary at the conclusion of time periods.

Amended by R.1995 d.251, effective May 15, 1995.
See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

Case Notes

Insufficient notification of charges. Dept. of Law and Public Safety v. Miller, 115 N.J.Super. 122, 278 A.2d 495 (App.Div.1971).

SUBCHAPTER 2. EMPLOYEE LAYOFF RIGHTS

4A:8-2.1 Types of layoff rights

(a) A lateral title right means the right of a permanent employee to exercise displacement rights as set forth in N.J.A.C. 4A:8-2.2 against an employee in the layoff unit holding a title determined to be the same or comparable to the affected title of the employee. For a probationary employee, a lateral title right means the right to fill a vacant position or displace a provisional or probationary employee in the same title. Title comparability shall be determined by the Department of Personnel based on the following criteria:

1. The title(s) shall have substantially similar duties and responsibilities and, in State service, the same class code;
2. The education and experience requirements for the title(s) are the same or similar and the mandatory requirements shall not exceed those of the affected title;
3. There shall be no special skills, licenses, certification or registration requirements which are not also mandatory for the affected title; and
4. Any employee in the affected title with minimal training and orientation could perform the duties of the designated title by virtue of having qualified for the affected title.

(b) A demotional title right means the right of a permanent employee to exercise displacement rights as set forth in N.J.A.C. 4A:8-2.2 against an employee in the layoff unit holding a title determined to be lower than but related to the affected title of the employee. Demotional title rights shall be determined by the Department of Personnel based on the following criteria:

1. The title(s) shall have lower but substantially similar duties and responsibilities and, in State service, where applicable, a lower class code;
2. The education and experience requirements for the title(s) shall be similar and the mandatory requirements shall not exceed those of the affected title;
3. Special skills, licenses, certification or registration requirements shall be similar and not exceed those which are mandatory for the affected title; and
4. Any employee in the affected title with minimal training and orientation could perform the duties of the

designated title by virtue of having qualified for the affected title.

(c) A special reemployment right means the right of a permanent employee, based on his or her permanent title at the time of the layoff action, to be certified for reappointment after the layoff action to the same, lateral and lower related titles. Special reemployment rights shall be determined by the Department of Personnel in the same manner as lateral and demotional rights.

1. A special reemployment list from one governmental jurisdiction shall not be certified to another jurisdiction.

i. In local service, for purposes of this chapter, an autonomous agency shall be considered a separate jurisdiction. An autonomous agency is one which, by statute, is a body corporate and has the powers of an appointing authority.

ii. In State service, the entire State government constitutes a single jurisdiction.

(d) Employees serving in a specialized credential variant title shall have title rights based upon the special credentialing, provided that the employees are serving in a specialized credential variant title on or before submission of the layoff plan, see N.J.A.C. 4A:8-1.4. Specialized credentialing shall be based upon at least one of the following, upon approval by the Department of Personnel:

1. Licensure or certification;
2. Specialized education;
3. Specialized client-based or program experience; or
4. Service as a trainee in a specialized area of operation leading to advancement to a primary title with specialized credentialing.

(e) Affected negotiations representatives shall be given reasonable notice and permitted to be present at any meeting with individual employees where layoff rights are discussed.

(f) See N.J.A.C. 4A:8-2.2 for the exercise of lateral and demotional title rights, and see N.J.A.C. 4A:8-2.3 for the exercise of special reemployment rights.

Amended by R.1994 d.441, effective September 6, 1994.
See: 26 N.J.R. 2182(a), 26 N.J.R. 3705(b).
Amended by R.1995 d.251, effective May 15, 1995.
See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

Case Notes

County prosecutor's office and other offices of county governmental structure were "one governmental jurisdiction", and eligible persons on county-wide special reemployment list were entitled to fill positions in county prosecutor's office and to displace provisional appointees. Matter of Chief Clerk, 282 N.J.Super. 530, 660 A.2d 1217 (A.D.1995).

4A:8-2.2 Exercise of lateral and demotional rights

(a) In State service, a permanent employee in a position affected by a layoff action shall be provided applicable lateral and demotional title rights first at the employee's option within the municipality in which the facility or office is located, and then to the job locations selected by the employee within the department or autonomous authority. The employee shall select individual job locations in preferential order from the list of all job locations (see N.J.A.C. 4A:8-1.5(c)) and indicate:

1. Job locations at which he or she will accept lateral title rights; and

2. Job locations at which he or she will accept demotional title rights, including any restrictions based on salary range or class code.

(b) In local service, a permanent employee in a position affected by a layoff action shall be provided title rights within the layoff unit.

(c) Following the employee's selection of job location preferences, lateral and demotional title rights shall be provided in the following order:

1. A vacant position that the appointing authority has previously indicated it is willing to fill;

2. A position held by a provisional employee who does not have permanent status in another title. Where there are multiple provisional employees at a job location, the specific position shall be determined by the appointing authority;

3. A position held by a provisional employee who has permanent status in another title. Where there are multiple provisionals at a job location, the specific position shall be determined based on the level of the permanent title held and seniority;

4. The position held by the employee serving in a working test period with the least seniority;

5. In State service, and in local jurisdictions having a performance evaluation program approved by the Department of Personnel, the position held by the permanent employee whose most recent (within the last 12 months) performance rating in his or her permanent title was Significantly Below Standards or equivalent rating;

6. In State service, and in local jurisdictions having a performance evaluation program approved by the Department of Personnel, the position held by the permanent employee whose most recent (within the last 12 months) performance rating in his or her permanent title was Marginally Below Standards or equivalent rating;

7. The position held by the permanent employee with the least seniority (see N.J.A.C. 4A:8-2.4(a)).

(d) Employees serving in their working test periods shall be provided rights to their probationary titles in the same order as (c)1 through 4 above.

(e) When an employee in a professional title is granted demotional title rights to a para-professional or non-professional title, or when an employee in a para-professional title is granted demotional title rights to a non-professional title, displacement may be made only on the basis of greater permanent continuous service. See N.J.A.C. 4A:4-2.5 for definitions of professional, para-professional and non-professional titles.

(f) Demotional rights may extend beyond the employee's demotional title rights to include any title previously held on a permanent basis within current continuous service. Displacement may be made only on the basis of greater permanent continuous service except when a provisional or probationary employee is serving in the previously held title. In such cases, the provisional or probationary employee shall be subject to displacement.

1. Such extended rights shall not be granted when the employee has either lateral title rights options, or demotional title rights options to a title with a higher class code than the previously held title, within the selected job locations.

(g) Employees who are placed in trainee titles shall serve a complete training period if the trainee title is outside of either the specialized or generalized title series from which they were laid off.

Amended by R.1990 d.555, effective November 19, 1990.

See: 22 N.J.R. 2629(b), 22 N.J.R. 3482(c).

Reference to "State service" deleted; rule applies to both local and State service.

Amended by R.1995 d.251, effective May 15, 1995.

See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

Administrative change.

See: 27 N.J.R. 2384(b).

Administrative correction.

See: 27 N.J.R. 3156(a).

Amended by R.1996 d.259, effective June 3, 1996.

See: 28 N.J.R. 1334(a), 28 N.J.R. 2839(a).

In (c)4 substituted "seniority" for "probationary time" and in (d) substituted "rights to their probationary titles" for "lateral title rights".

4A:8-2.3 Exercise of special reemployment rights

(a) A permanent employee shall be granted special reemployment rights based on the permanent title from which he or she has been laid off, demoted or displaced by job location. In addition, the employee shall be entitled to special reemployment rights to his or her previously held lateral or demotional title (see N.J.A.C. 4A:8-2.2(f)). These rights are subject to the following limitations:

1. In State service, an employee who is displaced from the municipality in which his or her facility or office was located shall, at the employee's option, be granted special reemployment rights to that municipality in addition to job locations selected by the employee.

9. The employee with the higher performance rating during the 12 month period prior to the effective date of the layoff shall have priority over an employee with a lower rating. In local service, the performance rating system must have been approved by the Department of Personnel.

10. The employee with the higher performance rating during the period between 24 months and 12 months prior to the effective date of the layoff shall have priority over an employee with a lower rating. In local service, the performance rating system must have been approved by the Department of Personnel.

11. Other factors as may be determined by the Commissioner.

Amended by R.1990 d.387, effective August 6, 1990.
See: 22 N.J.R. 1300(b), 22 N.J.R. 2263(a).

In (c): added "family" to list of leaves with pay.
Amended by R.1994 d.620, effective December 19, 1994.

See: 26 N.J.R. 3511(a), 26 N.J.R. 5002(b).

Amended by R.1995 d.12, effective January 3, 1995.
See: 26 N.J.R. 4126(a), 27 N.J.R. 145(a).

Amended by R.1995 d.251, effective May 15, 1995.

See: 27 N.J.R. 612(a), 27 N.J.R. 1967(b).

Administrative correction.

See: 27 N.J.R. 3156(a).

Petitions for Rulemaking: Layoffs, Seniority.

See: 27 N.J.R. 4916(a).

Amended by R.1996 d.259, effective June 3, 1996.

See: 28 N.J.R. 1334(a), 28 N.J.R. 2839(a).

In (d) added provision relating to local service.

Amended by R.1996 d.260, effective June 3, 1996.

See: 28 N.J.R. 1441(a), 28 N.J.R. 2841(a).

In (a) excepted police and fire titles, added (b) and recodified former (b)-(g) as (c)-(h).

Case Notes

Statute which permitted layoff of permanent public employee superseded statute providing that an injured public employee receiving workers' compensation benefits was to continue on the payroll. *Novak v. Camden County Health Services Center Bd. of Managers*, 255 N.J.Super. 93, 604 A.2d 649 (A.D.1992).

Negotiability of seniority. *State v. State Supervisory Employees Association*, 78 N.J. 54, 393 A.2d 233 (1978).

4A:8-2.5 Reassignments

(a) For a period of 12 months after the service of the layoff notice required by N.J.A.C. 4A:8-1.6(a), no permanent or probationary employee in the layoff unit in a title actually affected by layoff procedures shall be subject to the following types of involuntary reassignments, except as permitted by the Commissioner for good cause:

1. Reassignment to a different shift, unless the reassignment is based on a seniority program;

2. In State service, if employed in the original municipality, reassignment to a different municipality; and

3. In State service, if not employed in the original municipality, reassignment to a different job location.

(b) Specific justification for such involuntary reassignments must be shown by the appointing authority.

(c) During the period described in (a) above, notice of the types of voluntary reassignments listed in (a) above shall be provided to affected negotiations representatives, and appointing authorities should consult with such representatives upon request. Appointing authorities shall conspicuously post notices of opportunities for voluntary reassignment for a period of 10 working days at all work locations.

Amended by R.1995 d.251, effective May 15, 1995.

See: 27 N.J.R. 612(a), 27 N.J.R.1967(b).

Administrative correction.

See: 27 N.J.R. 3156(a).

4A:8-2.6 Appeals

(a) Permanent employees and employees in their working test period may file the following types of appeals:

1. Good faith appeals, based on a claim that the appointing authority laid off or demoted the employee in lieu of layoff for reasons other than economy, efficiency or other related reasons. Such appeals shall be subject to hearing and final administrative determination by the Merit System Board (see N.J.A.C. 4A:2-2.9 et seq.); and/or

2. Determination of rights appeals, based on a claim that an employee's layoff rights or seniority were determined and/or applied incorrectly. Such appeals shall be subject to a review of the written record by the Department of Personnel, with a right to further appeal to the Commissioner (see N.J.A.C. 4A:2-1.1(d)).

(b) Good faith and determination of rights appeals shall be filed within 20 days of receipt of the final notice of status required by N.J.A.C. 4A:8-1.6(f). Appeals must specify what determination is being appealed, the reason(s) for the appeal, and the relief requested.

(c) The burden of proof is on the appellant.

Case Notes

Standards of review to be applied by Commission in appeals de novo. *Henry v. Rahway State Prison*, 81 N.J. 571, 410 A.2d 686 (1980).

Determination as to whether layoffs for purposes of economy were made in good faith. *Tyler, et al. v. City of Paterson*, 2 N.J.A.R. 272 (1979). *DiGerolamo v. Borough of Roselle*, 1 N.J.A.R. 1 (1979).